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# STATE SCHOOL SYSTEMS:

## II

LEGISLATION AND JUDICIAL DECISIONS RELATING  
TO PUBLIC EDUCATION, OCTOBER 1,  
1906. TO OCTOBER 1, 1908

By EDWARD C. ELLIOTT  
PROFESSOR OF EDUCATION IN  
THE UNIVERSITY OF WISCONSIN



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#### SPECIAL NOTE.

The citations and digests of the legal decisions relating to public education contained in this number of the Bulletin have been derived, excepting as otherwise indicated, from the American Digest, and the National Reporter System, published by the West Publishing Company, of St. Paul, Minn., and copyrighted by that company, which retains and reserves its exclusive rights to such matter. Citations and digests from the following publications are specifically copyrighted:

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## LETTER OF TRANSMITTAL

DEPARTMENT OF THE INTERIOR.

BUREAU OF EDUCATION,

Washington, November 10, 1908.

SIR: I have the honor to transmit herewith a manuscript entitled "State School Systems: Legislation and Judicial Decisions relating to Public Education, October 1, 1906, to October 1, 1908," which has been prepared by Prof. Edward C. Elliott, of the University of Wisconsin, and to recommend its publication in the Bulletin of the Bureau of Education.

Two years ago Professor Elliott prepared a similar digest, covering the two-year period from October 1, 1904, to October 1, 1906. This was intended particularly for the use of state education offices and the education committees of the state legislatures, then about to convene. Abundant evidence has been received of the usefulness of that publication to the officials for whose use it was primarily intended, and also to many other persons engaged in the comparative study of educational legislation and administration. The digest herewith presented has been prepared in a more leisurely and thorough manner than was possible in the case of the earlier publication, and will, it is believed, be found still more serviceable in many directions. The object chiefly in view in offering it for publication is the same as that set forth above in the case of the legislative number of the Bulletin of 1906. It is believed that it will answer numerous inquiries which are likely to arise in the course of legislative procedure affecting education in the several States, and that in this way it will contribute in no small measure to the end proposed for the Bureau of Education in the act of March 2, 1867, establishing this office, that of "diffusing such information respecting the organization and management of schools and school systems \* \* \* as shall aid the people of the United States in the establishment and maintenance of efficient school systems, and otherwise promote the cause of education throughout the country."

Very respectfully,

ELMER ELLSWORTH BROWN,  
*Commissioner.*

The SECRETARY OF THE INTERIOR.

## PREFATORY NOTE.

The following work, relating to current educational legislation and judicial decisions in the United States as generally affecting the organization and administration of the state school systems, was undertaken at the instance of the Commissioner of Education of the United States, Dr. Elmer Ellsworth Brown. It is in continuation of the plan inaugurated two years ago, which resulted in a similar publication covering the period 1904-1906 (Bulletin, 1906: No. 3). The very evident wide usefulness of that publication, together with its cordial reception by those for whom it was intended, seem to justify its successor at this time.

The work of preparation of the present number has been carried forward principally in the Wisconsin state library and the law library of the University of Wisconsin, at Madison. To the members of the staff of each of these libraries I am indebted in the largest measure for their continued and courteous assistance in placing the necessary facilities at my disposal. In this connection I desire especially to mention Mr. Gilson G. Glazier, librarian, and Mr. William H. Orvis, assistant librarian, of the state library. Dr. Charles McCarthy, librarian of the Wisconsin legislative reference library, has by his advice and continued helpfulness furthered in numerous ways the progress of my task. Mr. W. L. Bailey and Miss Elizabeth McKee, of the University of Wisconsin, have rendered much timely and valuable aid in the correction of the manuscript and proof.

The conditions under which this work was undertaken would have made impossible the incorporation of those portions dealing with judicial decisions relating to education had not Mr. H. E. Randall, editor-in-chief of the West Publishing Company, generously granted permission to make use of invaluable copyrighted material.

With but one or two exceptions the various state superintendents of public instruction, or the corresponding state educational officers, have responded to a request for information regarding the character and importance of the legislation enacted in their several States during the period under consideration. The assistance of these officers has added much to the value and quality of the results I have attempted to set forth, and I take this opportunity of expressing my appreciation of such assistance.

Throughout, the spirit of hearty cooperation, characteristic of the attitude of all those upon whom I have had to depend, and especially so of the various members of the staff of the Bureau of Education, has contributed to make my work far less arduous and far more profitable than it otherwise would have been.

In spite of the care in preparation, a piece of work of this kind contains possibly some minor errors. For these, and perhaps larger ones, I alone am responsible.

EDWARD C. ELLIOTT.

The UNIVERSITY OF WISCONSIN,  
November 1, 1908.

# STATE SCHOOL SYSTEMS: LEGISLATION AND JUDICIAL DECISIONS RELATING TO PUBLIC EDUCATION, OCTOBER 1, 1906, TO OCTOBER 1, 1908.

## GENERAL EXPLANATIONS.

*Scope and plan.*—In the following pages an attempt has been made to classify and to analyze the changes wrought in the public school systems of the various States and Territories by the legislative measures enacted during the past two years, October 1, 1906, to October 1, 1908. Supplementary to this legislative material, there are also included digests of or citations to those decisions of the state supreme courts containing important interpretations of statutes relating to public education, or defining in a significant way the status of the public schools.

Legislative sessions are biennial in all the States and Territories except in Georgia, Massachusetts, New Jersey, New York, Rhode Island, and South Carolina, where they are annual, and in Alabama, where they are quadrennial. Consequently, the period selected includes the enactments of one session of the legislature in most of the States and all of the Territories, and of two sessions in the case of the States holding annual sessions.\* In addition, the acts of extra legislative sessions held in several of the States have been examined for measures relative to the public school system.

The following table displays the time of meeting of those legislatures the enactments of which have been presented:

*Table of legislative sessions, October 1, 1906, to October 1, 1908.*

Alabama.....	Jan.	8, 1907, to Mar.	6, 1907.
Alabama (adjourned).....	July	12, 1907, to Aug.	12, 1907
Arizona.....	Jan.	21, 1907, to Mar.	21, 1907
Arkansas.....	Jan.	14, 1907, to May	14, 1907
California.....	Jan.	7, 1907, to Mar.	12, 1907
Colorado.....	Jan.	2, 1907, to Apr.	1, 1907
Connecticut.....	Jan.	9, 1907, to Aug.	1, 1907
Delaware.....	Jan.	1, 1907, to Mar.	25, 1907

\* The acts of the 1908 session of the legislature of Georgia have been excluded, owing to the delay in printing. The acts of the 1906 session, excluded on this account from the bulletin issued in 1906, have been included here.

Florida.....	Apr.	2, 1907, to May	31, 1907
	June	27, 1906, to Aug.	16, 1908
Georgia.....	June	26, 1907, to Aug.	17, 1907
	June	24, 1908, to Aug.	13, 1908
Idaho.....	Jan.	7, 1907, to Mar.	8, 1907
Illinois.....	Jan.	9, 1907, to May	16, 1907
Indiana.....	Jan.	10, 1907, to Mar.	11, 1907
Indiana (extra).....	Sept.	18, 1908, to Sept.	30, 1908
Iowa.....	Jan.	14, 1907, to Apr.	9, 1907
Kansas.....	Jan.	8, 1907, to Mar.	14, 1907
Kansas (extra).....	Jan.	16, 1908, to Feb.	4, 1908
Kentucky.....	Jan.	7, 1908, to Mar.	17, 1908
Louisiana (extra).....	Nov.	11, 1907, to Dec.	5, 1907
Louisiana.....	May	11, 1908, to July	9, 1908
Maine.....	Jan.	2, 1907, to Mar.	28, 1907
Maryland.....	Jan.	1, 1908, to Apr.	9, 1908
	Jan.	2, 1907, to June	28, 1907
Massachusetts.....	Jan.	1, 1908, to June	13, 1908
Michigan.....	Jan.	2, 1907, to June	29, 1907
Minnesota.....	Jan.	8, 1907, to Apr.	24, 1907
Mississippi.....	Jan.	7, 1908, to Apr.	21, 1908
Missouri.....	Jan.	2, 1907, to Mar.	16, 1907
Missouri (extra).....	Apr.	9, 1907, to May	13, 1907
Montana.....	Jan.	7, 1907, to Mar.	7, 1907
Nebraska.....	Jan.	1, 1907, to Apr.	4, 1907
Nevada.....	Jan.	21, 1907, to Mar.	21, 1907
New Hampshire.....	Jan.	2, 1907, to Apr.	5, 1907
New Jersey.....	Jan.	8, 1907, to Apr.	13, 1907
New Jersey (extra).....	June	18, 1907, to Oct.	12, 1907
	Jan.	14, 1908, to Apr.	14, 1908
New Mexico.....	Jan.	21, 1907, to Mar.	21, 1907
New York.....	Jan.	2, 1907, to June	26, 1907
New York (extra).....	July	8, 1907, to July	26, 1907
New York.....	Jan.	1, 1908, to Apr.	23, 1908
New York (extra).....	May	11, 1908, to June	11, 1908
North Carolina.....	Jan.	9, 1907, to Mar.	11, 1907
North Carolina (extra).....	Jan.	21, 1908, to Feb.	3, 1908
North Dakota.....	Jan.	8, 1907, to Mar.	8, 1907
Ohio.....	Jan.	6, 1908, to May	11, 1908
Oklahoma.....	Dec.	2, 1907, to May	28, 1908
Oregon.....	Jan.	14, 1907, to Feb.	23, 1907
Pennsylvania.....	Jan.	1, 1907, to May	16, 1907
	Jan.	1, 1907, to Apr.	23, 1907
Rhode Island.....	Jan.	7, 1908, to May	26, 1908
	Jan.	8, 1907, to Feb.	16, 1907
South Carolina.....	Jan.	14, 1908, to Mar.	7, 1908
South Dakota.....	Jan.	8, 1907, to Mar.	8, 1907
Tennessee.....	Jan.	5, 1907, to Apr.	16, 1907
	Jan.	8, 1907, to Apr.	12, 1907
Texas.....	Apr.	12, 1907, to May	17, 1907
	Jan.	14, 1907, to Mar.	14, 1907
Utah.....	Oct.	3, 1906, to Dec.	20, 1906
Vermont.....	Jan.	8, 1908, to Mar.	27, 1908
Virginia.....			

# GENERAL EXPLANATIONS.

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Washington.....	Jan. 14, 1907, to Mar. 14, 1907
West Virginia.....	Jan. 9, 1907, to Feb. 22, 1907
West Virginia (extra).....	Feb. 23, 1907, to Mar. 5, 1907
Wisconsin.....	Jan. 23, 1908, to Mar. 3, 1908
Wyoming.....	Jan. 9, 1907, to July 16, 1907
	Jan. 8, 1907, to Feb. 16, 1907

To accomplish the purposes for which the bulletin is immediately intended in as direct and brief a manner as possible, legislative enactments of the following specific character pertaining to state school systems have been included:

(1) All general permanent laws, whether new enactments or amendments to general permanent laws already in force.

(2) Constitutional amendments, adopted or proposed, whether general or local in their effect.

(3) Laws resulting in significant changes in the organization and administration of public education in the larger and more important cities of each State,\* even when general in form and special in application; provisions of new municipal charters, and amendments to existing charters.

(4) Laws authorizing special appropriation for the establishment of a new educational institution or class of institutions, and extraordinary appropriations of wide general interest.

(5) Laws relating to the general administration, control, and management of particular state educational institutions.<sup>b</sup>

The following classes of legislation have been excluded from consideration:

(1) Laws providing for general appropriations.

(2) Special acts relating to particular individuals or minor localities.

(3) Special and temporary acts, unless of more than local or transitory concern.<sup>c</sup>

(4) Federal and local legislation relating to education in the District of Columbia, Alaska, Hawaii, Porto Rico, Philippine Islands, and other insular possessions.<sup>d</sup>

\* Such laws are, however, with few exceptions, merely classified and digested in the briefest possible manner. They have been reserved for complete analysis and treatment in a separate bulletin dealing with city school systems, which is in preparation and to be issued later.

<sup>b</sup> Legislative measures relating to certain classes of reformatory, charitable, and quasi educational institutions have generally been omitted; for complete explanation see footnote under section T, "Education of defectives."

<sup>c</sup> For instance, the appointment of the commission on industrial education in New Jersey (see enactment No. 1284); or the appointment of the Collinwood School fire relief commission in Ohio (see enactment No. 37); or the joint resolution of the Wisconsin legislature (enactment No. 55) concerning a national system of education are included.

<sup>d</sup> The legislation relating to education enacted by the 59th Congress (1906-7) was summarized in the Report of the Commissioner of Education for 1906, vol. 2, pp. 1229-55; that by the 1st session of the 60th Congress (beginning Dec. 2, 1907) in the Report for 1906, vol. 1, pp. 109-120.



In addition to the legislation above noted, digests of and citations to recent decisions of the highest state courts of the following general character have been likewise included:

(1) Those relative to the constitutionality of important statutes concerning public education.

(2) Those presenting special interpretations of measures enacted during the biennium 1906-1908.

(3) Those touching upon interests and principles of direct and vital importance to our social policy in public education.\*

*Method of presentation.*—With respect to the legislative material, the aim has been to present in a concise and serviceable manner the meaning and contents of each particular enactment, classified in accordance with the writer's best judgment. As a general thing but one entry has been made for each of those laws treating of but one particular topic or title. Frequently, where an enactment possesses a relation to two subjects, according to the scheme of classification, a method of cross reference has been resorted to. Thus, for example, enactment No. 133 (Kentucky) contains several important items. In order to classify properly, several cross references are given. (See enactments Nos. 19 and 1239.)

In a number of cases wherein a single law treats of a number of diverse subjects or titles, or wherein the amendments to the educational code are grouped together in a single act or chapter, an effort has been made to distribute the particular portions of such measures so that the alterations produced in different directions would be evident. Such distribution has been indicated in an appropriate manner, either by indicating a particular section of an individual chapter or act, or otherwise.

Each law or separate title has been treated in one of three ways:

(1) Unimportant new laws and amendments have been indicated as briefly as possible by title or otherwise. Where the title of the law presents its import in a clear and concise manner it has been used, sometimes by quotation and sometimes by such modifications of the wording as would convey its significance in the best possible manner.

(2) Frequently, and especially in the case of amendments to existing statutes, besides reference to the particular subject, more or less explanatory matter has been added to bring out the exact change produced.

(3) With important and far-reaching measures, in addition to the title and digest of the subject-matter of the enactment, either the whole or the most significant portion has been printed.

\*As, for example, the decision of the United States Supreme Court upholding the constitutionality of the Massachusetts act requiring street-railway companies to carry school children for half fare. The text of this decision is given at the end of this bulletin.

With respect to the judicial decisions, the method of simple citation has been employed in the case of those of minor importance. Generally, however, a brief digest of pertinent points has been included. In a few instances a complete syllabus of the decision has been presented. Appended to the main body of classified legislative and judicial material, there has been included the complete text of a number of recent court decisions, which are thought to be of more than passing interest to those engaged in the work of administration of public education.

Still further, by way of evaluation of the importance of laws and decisions in the respective States, use has been made of the information furnished by the various state superintendents and educational officers. Laws and decisions which they have regarded as of the first importance in the development and progress of the state's educational activities and system have been indicated by an asterisk (\*).

*Method of classification and arrangement.*—In order to facilitate presentation and to render this bulletin of ready service for reference, the whole mass of the special class of educational legislation, together with the digests of and citations to related judicial decisions, has been carefully classified according to what seems to be a logical and consistent scheme. At the same time, throughout, the effort has been to avoid such complexity of classification as would tend to defeat its purpose. Under each of the headings indicated has been placed all of the matter properly belonging thereto, arranged alphabetically by States. In addition, the enactments and decisions have been numbered consecutively, thereby contributing to ease and readiness in discovering matter of a particular type. Citations to and digests of judicial decisions have been distinguished from legislative enactments by prefixing a capital "D" before the reference number. The index at the close of the bulletin further insures the discovery of legislation bearing upon any single topic.

*Typography.*—In the case of each legislative item, the title of the measure, whether given verbatim or in modified form, is printed in the smaller type (8 point), leaded. Comments following the title of the measure, or a brief summary of its provisions are printed in the same type without leads. Direct quotations from the text of the measure are printed in 8-point type without leads, and are inclosed within quotation points.

The material taken from judicial decisions has been treated in the same general way.

The reviews found in connection with each classified group of legislation and decisions have been printed in the larger (10-point) type, leaded.



### PLAN OF CLASSIFICATION.\*

#### A. GENERAL ADMINISTRATIVE CONTROL AND SUPERVISION OF ELEMENTARY AND SECONDARY EDUCATION.

- a. General.
- b. State boards and officers.
- c. County boards and officers.
- d. District, township, and municipal boards and officers.
- e. School meetings; elections; qualifications for voters.
- f. Administrative units: Districts, townships, municipalities, etc.; formation; division; consolidation.

#### B. STATE FINANCE AND SUPPORT.

- a. General.
- b. State school lands.
- c. Permanent state school funds: Composition and investment.
- d. State taxation for school purposes.
- e. General apportionment of state school funds; special state aid for elementary education.
- f. Special state aid for secondary education.

#### C. LOCAL (COUNTY, DISTRICT, MUNICIPAL) FINANCE AND SUPPORT.

- a. General.
- b. Local (county, district, municipal) finance and support: bonds and indebtedness.
- c. Local (county, district, municipal) taxation for school purposes.

#### D. BUILDINGS AND SITES.

- a. General.
- b. Buildings and sites: State aid; approval of plans.
- c. Buildings and sites: Decoration; care; sanitation; inspection.
- d. Buildings and sites: Prohibition districts.
- e. U. S. flag in schools.

#### E. TEACHERS IN ELEMENTARY AND SECONDARY SCHOOLS.

- a. Teachers: Qualifications; general.
- b. Teachers' examinations and certificates: General.
- c. Teachers' examinations and certificates: Special.
- d. Teachers' certificates; validity; indorsement; registration; revocation.
- e. Teachers' certificates; recognition of normal school, and college or university diplomas.
- f. Teachers' associations.

#### F. TEACHERS: EMPLOYMENT; CONTRACT; APPOINTMENT; DISMISSAL.

- a. General.
- b. Teachers' salaries.
- c. Teachers' pensions.

#### G. TEACHERS: PROFESSIONAL TRAINING AND EDUCATION.

- a. University departments and schools of education.
- b. State normal schools.
- c. County and local normal and training schools.
- d. Teachers' institutes and summer schools.

\* This plan of classification is, with the addition of one or two minor subdivisions, identical with that followed in the previous legislative bulletin (Bulletin, 1906: No. 3). The advantages for comparative purposes are obvious.

## H. SCHOOL POPULATION AND ATTENDANCE.

- a. General.
- b. School census.
- c. School year; month; day.
- d. School holidays.
- e. Place of attendance; transportation of pupils; consolidation of schools.
- f. Compulsory attendance; child labor; truancy.

## I. SCHOOL DISCIPLINE.

- a. General.
- b. Corporal punishment.
- c. Suspension and expulsion.
- d. Fire drills.

## J. HEALTH REGULATIONS.

- a. General.
- b. Physical examination and medical inspection.

## K. TEXT-BOOKS AND SUPPLIES.

- a. General.
- b. Free text-books.
- c. Uniformity of text-books.

## L. SUBJECT-MATTER OF INSTRUCTION.

- a. General.
- b. History, civics, and patriotism.
- c. Physical education.
- d. Physiology; hygiene; alcohol; narcotics.
- e. Moral and ethical education.
- f. Humane treatment of animals.
- g. Music.
- h. Drawing.
- i. Technical, manual, and industrial education.
- j. Days of special observances.
- k. Other special subjects.

## M. SPECIAL TYPES OF SCHOOL.

- a. General.
- b. Kindergartens.
- c. Evening schools.
- d. Vacation schools and playgrounds.
- e. University extension; public lectures.
- f. Farmers' institutes, etc.
- g. Private and endowed schools.

## N. SECONDARY EDUCATION: HIGH SCHOOLS AND ACADEMIES.

## O. TECHNICAL AND INDUSTRIAL: ELEMENTARY AND SECONDARY.

## P. HIGHER EDUCATIONAL INSTITUTIONS.

- a. General.
- b. Finance; lands; support.
- c. State universities and colleges.

## Q. PROFESSIONAL AND HIGHER TECHNICAL EDUCATION.

- a. Teachers' colleges and normal schools.
- b. Agricultural colleges.
- c. United States grant.
- d. Mining schools.
- e. Military schools.
- f. Miscellaneous technical.

## R. PRIVATE AND ENDOWED HIGHER INSTITUTIONS: STATE CONTROL.

## S. LIBRARIES.

- a. Public-school libraries.

## T. EDUCATION OF DEFECTIVES.

- a. General.
- b. Deaf and dumb.
- c. Blind.
- d. Crippled and deformed.
- e. Feeble-minded.

## U. EDUCATION OF DEPENDENTS AND DELINQUENTS.

- a. General.
- b. Truant and detention schools.

*Method of citation.*—At the end of each legislative entry will be found the proper citation to the section: chapter, number of act, or page (in the case of those States whose session laws are not numbered consecutively); year, day, and month of approval or passage. In a number of instances where enactments became operative at some date after passage or approval, the date of operation follows in parentheses the date of passage or approval.

In the case of digests of and citations to judicial decisions the usual method of reference to reports has been employed.

An especial effort has been made to avoid arbitrary and technical abbreviations in making citations. Consequently, but few have been used and these only the most common and easily recognized ones. It is thought that the resulting absence of ambiguity and confusion for the lay and nontechnical reader more than compensates for the slight increase in the volume of matter presented.

*Reviews of legislation.*—An effort has been made to characterize briefly and to indicate the significant features of the legislation included under each of the principal and important subjects as indicated by the plan of classification. These reviews and decisions (printed in large type) will be found immediately preceding the classified list of enactments of each section.

## BIBLIOGRAPHY OF RECENT EDUCATIONAL LEGISLATION.

The following titles relate to recent publications which have a bearing upon some of the subjects with which this number of the bulletin deals:

## SCHOOL LAW.

Allen, Charles R. Educational progress for 1907. School review, 16: 296-310, May, 1908.

Thompson, William Oxley. A review of certain features of the year in school administration. Ohio educational monthly, 57: 392-398, September, 1908.

Résumé of legislation, revision of courses of study, new academic degrees.

\* See p. 2 for note concerning use of copyrighted material.

- United States. Fifty-ninth Congress. Legislation relating to education enacted, 1905-1907. In United States. Bureau of Education. Report of the commissioner for the year 1906. Washington, Government Printing Office, 1908, v. 2, p. 1229-1255.
- Vandewalker, Nina. Kindergarten legislation in the United States. American school board Journal, 37:3, 20, October, 1908.  
History of public school kindergarten laws. States that have passed them, and a discussion of the threatened elimination of the public school kindergarten in Wisconsin, by passage of law raising school age from 4 to 6 years.
- Indiana. Recent school legislation in Indiana. School and home education, 28:113-115, November, 1908.  
"Seven of the laws passed by the sixty-fifth general assembly of Indiana in 1907 were formulated by an educational commission."
- Kansas. Educational commission. Recommendations as to needed legislation for the public schools of Kansas, proposed by the educational commission. December, 1908. Topeka, State printing office, 1908. 47 p. 8°. (Bulletin no. 4)
- Ohio. Helermann, F., and others. Educational legislation in Ohio in relation to Catholic interests \* \* \* In Catholic Educational Association. Report of the proceedings and addresses, 1907. Columbus, Ohio. Published by the association [1907]. p. 66-99.  
In Pennsylvania, p. 71-84; in New York, p. 84-89; in Illinois, p. 89-94; in California, p. 94-99.
- Mardis, S. K. The minimum salary law and state aid for weak school districts. Ohio teacher, 28:533-534, July, 1908.  
The Duval law of 1906; given in full.
- The "Small school board act." American school board Journal, 36:4, June, 1908.
- Wilson, E. S. Enlarged powers and responsibilities of the state commissioner of common schools. Ohio teacher, 28:387-389, April, 1908.
- Zeller, J. W., chairman. Report of the committee on rural schools. Ohio teacher, 28:389-91, April, 1908.  
Report made to the Ohio school improvement league. For a "state system" of mandatory county supervision, coupled with optional township supervision and centralization.
- Pennsylvania. Hamilton, Samuel. Some desirable features of a new school code. Pennsylvania school journal, 56:390-95, March, 1908.  
The State appointed a commission "to revise and codify the school laws of the State." The article is a virile discussion of changes that should be made.
- Norris, J. M. Revision of the school laws. Pennsylvania school journal, 56:483-87, May, 1908.
- Washington. Washington (State) Code Commission. Preliminary report. Northwest journal of education, 20:10-12, September, 1908.  
Commission created by the legislature in 1907 to revise the school laws.
- Wisconsin. Kindergartens. Wisconsin. The proposed constitutional amendment and the Wisconsin schools. Milwaukee, Wisconsin, 1908. 14 p. 8°. (Milwaukee normal school. Bulletin, v. 5, no. 2, October, 1908.)

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## LEGISLATION AND JUDICIAL DECISIONS RELATING TO PUBLIC EDUCATION.

[Enactments which have been reported by the chief officers of the several state educational systems as of the first importance in the development of those systems are indicated by an asterisk (\*).]

### A. ADMINISTRATIVE CONTROL AND SUPERVISION OF ELEMENTARY AND SECONDARY EDUCATION.

#### (a) General.\*

Of the legislation relating to the general administrative control and supervision of public education, the several enactments creating special commissions: Illinois (12), Iowa (14), Kentucky (20), North Dakota (35), Pennsylvania (47), Tennessee (50), Virginia (52), and Washington (53), for the purpose of revising the laws pertaining to the public-school systems, or proposing plans of reorganization to succeeding legislatures, are especially worthy of note. The spirit of this movement for a better adaptation of the educational organization to modern needs is well indicated by the duties assigned to the Illinois commission—"to make a thorough investigation of the common-school system of Illinois, and the laws under which it is organized and operated; to make a comparative study of such other school systems as may seem advisable and to submit to the forty-sixth general assembly a report, including such suggestions, recommendations, revisions, additions, corrections, and amendments as the commission shall deem necessary." In this connection, also, the general revision of the educational code effected in Nevada (79), New Mexico (32), West Virginia (54), and South Dakota (100), may be mentioned.

The recently adopted constitution of Oklahoma (42), and the proposed new constitution for Michigan (27), contain evidence of the modern progressive educational sentiment. The resolution in Wisconsin (55), requesting Congress to bring about an amendment to

\* Several States, among others Mississippi and Vermont, compiled and adopted a revised code of general laws during the biennium. These new codes contain numerous changes in the school laws, which, however, have not been included in this analysis of legislation. In several instances, notably Maryland, the complete volume of session laws for 1908 has not been available for the purposes of this publication. In such instances, whatever legislative material has been included has been derived from incidental sources of information, and consequently omissions of probably important material have been unavoidable.



the Federal Constitution providing for an harmonious system of education throughout the country, is concrete evidence of what seems to be a growing popular feeling that the scope of the educational activity of the Federal Government should be greatly extended. The proposal in Wisconsin (57) to raise the lower limit of school age from four years to six years, has provoked considerable discussion by reason of a possible interference with the conduct of kindergartens as a part of the public-school system. The somewhat comprehensive Oklahoma (43) measure, providing against nepotism in educational affairs, is not without significance. The creation of the "Collinwood fire commission" in Ohio (37) is a reminder of the extraordinary responsibility that public-school officials must assume, in order properly to discharge their duties and fully to safeguard the lives of public-school children.

Of the supreme court decisions classified in this section those of Arkansas (3), New York (34), and Ohio (41), relative to the vaccination of school children; those of Kansas (7), (18), Kentucky (21), and Oklahoma (45), relative to separate schools for white and colored children, and that of Montana (28), relative to county high schools, seem to possess more than passing interest.

1. **Alabama:** Directing an examination to be made of the affairs of the Tuskegee Normal and Industrial Institute. Report to be made to legislature. H. Jt. Res. No. 21, p. 75, Jan. 28, 1907.

D 2. **Alabama (1906):** Laws, 1903, p. 200, relating to the redistricting of public schools, is a restatement of the entire law on the subject, and in regard to the management and control of the same, and was intended to set up a new system, so that whatever power any school officer may have on these subjects must be derived from the act.—Gibson v. Mabrey, 40 So., 297.

D 3. **Arkansas (1907):** A rule of a school board of a city, providing that pupils before admission to the schools shall be vaccinated, adopted to prevent the spread of smallpox, and pursuant to the orders of the board of health of the city and advice of physicians is not an unreasonable regulation, and will not be set aside by the courts.—Auten v. Board of Directors of Special School Dist. of Little Rock, 104 S. W., 130.

4. **California:** Proposing amendment to sec. 6, art. 9, constitution, 1879, as amended Nov. 4, 1902, relative to the public-school system.

Defining status of evening, elementary, and secondary schools as parts of the public-school system.—Adopted, November, 1908.

Jt. Res., chap. 21, p. 1275, Mar. 6, 1907.

D 5. **California (1905):** General laws regulating public schools control, conflicting provisions of city charters.—McKenzie v. Board of Education of City and County of San Francisco, 82 P., 392.

The charter of a city and the general law should be construed together by the court, and made to harmonize, so as to give effect to each, if possible.—McKenzie v. Board of Education of City and County of San Francisco, 82 P., 392.

D 6. **Colorado (1904):** The decisions of the state board of education which Mills' Ann. St., sec. 3966, conferring on it power to decide questions of law and fact, provides shall be final, are not final in the sense that they are not reviewable by the courts; otherwise the statute would violate constitution, art. 6, sec. 1, vesting the judicial power in the courts there enumerated.—People v. Vanhorn, 77 P., 978.



7. **Connecticut:** Authorizing secretary of state board of education to compile and cause to be printed for distribution 2,500 copies of the laws relating to education.

Special acts No. 20, Mar. 14, 1907.

8. **Connecticut:** Continuing the joint standing committee on education with instructions to inquire into the conditions and progress of common-school education.

S. Jt. Res. No. 887 (No. 465, special acts), July 31, 1907.

9. **Delaware:** Authorizing the secretary of state to have printed for distribution, 1,000 copies of the school laws.

Jt. Res. chap. 270, Mar. 9, 1907.

- D 10. **Florida (1905):** Laws 1905, chap. 5384, establishing the state board of control, is not in conflict with constitution, art. 12, sec. 3, providing that the state board of education shall have supervision of schools of higher grades. *State v. Bryan*, 30 So., 929.

Laws 1905, chap. 5384, is not a revision of all the statutes of the State on the subject of the various colleges and schools of the State above the grade of common free schools, but is an independent act covering a general and comprehensive subject.—*State v. Bryan*, 39 So., 929.

- D 11. **Georgia (1907):** An act approved Aug. 23, 1905 (acts, 1905, p. 425), as amended by act Aug. 21, 1906 (acts, 1906, p. 61), known as the "McMichael School Law," is not subject to the objection that it violates the constitution or civ. code 1895, sec. 5779, declaring that no law or section of the code shall be repealed or amended unless the act making such amendment or affecting such repeal distinctly describes the act to be amended or repealed; this provision of the constitution having no application to repeals by implication.—*Edalgo v. Southern Ry. Co.*, 58 S. E., 846.

- 12\*. **Illinois:** Creating an educational commission, defining its powers and duties, and making an appropriation therefor.

Authorizing governor to nominate, and by and with advice of senate, appoint six persons representing the various phases of educational work within the State, who, together with the superintendent of public instruction, shall constitute a commission to investigate the common-school system of the State and compare it with other systems. Defining powers and duties and making appropriation.

H. B. 742, p. 24, May 25, 1907.

- D 13. **Indiana (1907)\*:** The establishment and regulation of public schools rests primarily with the legislative department.—*Stone v. Fritts*, 82 N. E., 792.

- 14\*. **Iowa:** Creating a commission to examine, review, and codify the laws relating to public schools.

— Providing for the organization, expenses, powers, and compensation of commission. Report to be made on or before Nov. 1, 1908.

Chap. 222, Apr. 13, 1907.

- D 15. **Iowa (1905):** Acts twenty-seventh general assembly, p. 48, chap. 84, is entitled "An act to amend secs. 2728, 2730, 2731, and 2732, and repeal sec. 2733 of the code, and enact a substitute therefor in relation to county schools," and sec. 4 of the statute provides that, should there be more applicants for admission to a county high school from any school corporation than the corporation's proportionate number of pupils the school corporation from which they attend shall pay their tuition out of its contingent fund. *Held*, that the statute is not invalid on the ground that the legislature had no power to compel a school corporation to pay for the education of pupils attending the high school without the corporation's consent.—*Boggs v. School Tp. of Cass, Guthrie County*, 102 N. W., 796.

\* The complete text of decision is given in the closing division of this bulletin.

\* Through the courtesy of the chairman, Prof. Frederick E. Bolton, of the University of Iowa, I have had an opportunity of reading the manuscript of the report of this commission. It is in the form of a carefully drawn bill, which introduces a number of far-reaching changes in the educational organization of that State.

D 16. Iowa (1906): Under code, secs. 2743, 2745, 2772, conferring on school boards discretion to adopt and promulgate rules for the proper government of schools, a rule so adopted will not be interfered with by the courts, unless it is so far unreasonable as to amount to an abuse of discretion.—*Kinzer v. Directors of Independent School Dist. of Marion*, 105 N. W., 696.

Whether a rule adopted by a school board for the violation of which a pupil was expelled, was reasonably within the jurisdiction of the board conferred by code, secs. 2772, 2782, authorizing the board to make rules and regulations for the government of schools and to expel students for a violation of regulations, etc., was a question which was reviewable by the courts and, as to which the party aggrieved was not limited to an appeal to the county superintendent.—*Ibid.*

The remedy for review of proceedings of a school board, either as to law or fact, with reference to a subject within the board's jurisdiction and as to which it is vested with a discretion, is by appeal to the county superintendent of schools, provided for by code, sec. 2818.—*Ibid.*

\*D 17. Kansas (1906): In the absence of a statute granting such power, a board of education of a city of the second class has no right to establish separate schools for white and colored children, and has no right to exclude a colored pupil from any public school on the ground alone that such pupil is colored.—*Cartwright v. Board of Education of City of Coffeyville*, 84 P., 382.

D 18. Kansas (1907): Laws, 1889, p. 329, chap. 227, is a special act providing for the government of the public schools of the city of Wichita, a city of the first class. Held to render all other provisions of the statutes relating to the public schools inapplicable to the public schools of Wichita, and, as it has not been amended or repealed, does not authorize the maintenance of separate schools for the education of white and colored children.—*Rowles v. Board of Education of City of Wichita*, 91 P., 88.

In the absence of statutory authority the board of education of the city of Wichita has no right to exclude a child by reason of its color from any public school of the city.—*Ibid.*

19. Kentucky: See enactment No. 133.

20\*. Kentucky: Creating an educational commission, defining its powers and duties, and providing for its expenses.

"Sec. 2. Said commission shall consist of the governor, the superintendent of public instruction, one member of the senate to be chosen by the senate, upon the passage and approval of this act, one member of the house of representatives to be chosen by the house of representatives upon the passage and approval of this act, one woman to be chosen by the Kentucky Federation of Women's Clubs, the president of the State University, the president of the Eastern State Normal School, the president of the Western State Normal School, one representative of the colleges of Kentucky, one superintendent of city schools and one superintendent of county schools. The three members last named shall be appointed by the governor upon the passage and approval of this act. The superintendent of public instruction shall ex officio be chairman of the commission. All vacancies that may occur by resignation or otherwise shall be filled by the governor."

"Sec. 4. It shall be the duty of the educational commission to make a thorough investigation of the whole school system and all the educational interests of Kentucky and the laws under which the same are organized and operated; to make a comparative study of such other school systems as may seem advisable and to submit to the next general assembly a report embracing such suggestions, recommendations, revisions, additions, corrections, and amendments as the commission shall deem necessary."

Chap. 65, Mar. 17, 1908.

- D 21. **Kentucky (1908)** : Act March 22, 1904, p. 181, chap. 85, prohibiting maintenance of institution of learning for white and negro races, held within police power, and valid.—*Berea College v. Commonwealth* (94 S. W.), 623.

Act March 22, 1904, p. 181, chap. 85, prohibiting branches of institution of learning within 25 miles of each other for white and colored persons, held not within police power.—*Ibid.*

Act March 22, 1904, p. 181, chap. 85, prohibiting maintenance of institutions of learning for both white and colored persons, held not a deprivation of equal protection of law, or of due process of law.—*Ibid.*

• The right to teach white and negro children in a private school at the same time and place is not a property right.—*Ibid.*

The Supreme Court of the United States, in the case of *Berea College v. The Commonwealth of Kentucky*, in error to the court of appeals of the State of Kentucky, gave judgment as follows (1908): "The act of 1904 forbids 'any person, corporation, or association of persons to maintain or operate any college,' etc. Such a statute may conflict with the Federal Constitution in denying to individuals powers which they may rightfully exercise, and yet, at the same time, be valid as to a corporation created by the State.

"It may be said that the court of appeals sustained the validity of this section of the statute, both against individuals and corporations. It ruled that the legislation was within the power of the State, and that the State might rightfully thus restrain all individuals, corporations, and associations.

"The statute is clearly separable and may be valid as to one class while invalid as to another. Even if it were conceded that its assertion of power over individuals can not be sustained, still it must be upheld so far as it restrains corporations.

"We need concern ourselves only with the question whether the first section can be upheld as coming within the power of the State over its own corporate creatures. We are of opinion that it does come within that power, and on this ground the judgment of the court of appeals of Kentucky is affirmed."—89 U. S., Ct. Rep., 33.

- D 22. **Kentucky (1907)** : The determination of the cases of extreme emergency within Ky. St. 1903, sec. 4428, providing that no school district established shall include less than 45 pupil children, except in cases of extreme emergency, is confined, in the first instance to the county superintendent, who acts judicially, and, in case he errs, an appeal may be prosecuted to the superintendent of public instruction, and, when these officials have determined that an extreme emergency exists, the courts can not interfere unless the power to act did not exist for want of notice required by sec. 4472, or unless the power was manifestly abused.—*Glidden v. Trustees of Common School Dist. No. 54*, 102 S. W., 1191; 31 Ky. Law Rep., 633.

23. **Louisiana**: Preventing school officials and public school teachers from acting as agents for or receiving gifts, rebates, commissions, or fees from individuals or companies that manufacture, handle, or sell any kind of school books, school supplies, school furniture, or school building material, and providing penalties for same.

Act No. 287, July 9, 1908.

24. **Massachusetts**: Providing for the printing of 1,200 additional copies of the report of the commission on industrial education.

Resolves, chap. 75, May 3, 1907.

25. **Massachusetts**: Amending sec. 173, chap. 102, Revised Laws, 1902, as amended by sec. 5, chap. 460, acts, 1904, relative to licenses and municipal regulations of exhibitions, shows, and amusements.

Adding clause exempting entertainments given in public school buildings by and for the benefit of the pupils and under the supervision of the school authorities from the requirement for license.

Chap. 809, Apr. 18, 1907.

- D 26. **Massachusetts (1906):** Where a school committee determined to close a school because of lack of pupils, it would be presumed, in the absence of evidence to the contrary, that the committee acted in good faith, and that their judgment was correct.—*Morse v. Ashley* (79 N. E.), 481.
27. **Michigan:** Provision concerning education in proposed new constitution (Adopted, November 3, 1908):

## ARTICLE XI.

## EDUCATION.

"SECTION 1. Religion, morality and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged."

"The above preamble is a quotation from the Ordinance of 1787. It is deemed a fitting introduction to this article."

"SEC. 2. A superintendent of public instruction shall be elected at the regular election to be held on the first Monday in April, nineteen hundred nine, and every second year thereafter. He shall hold office for a period of two years from the first day of July following his election and until his successor is elected and qualified. He shall have general supervision of public instruction in the state. He shall be a member and secretary of the state board of education. He shall be ex-officio a member of all other boards having control of public instruction in any state institution, with the right to speak but not to vote. His duties and compensation shall be prescribed by law."

"This section takes the place of sec. 1, art. XIII of the present constitution, and includes certain provisions of sec. 1, art. VIII, and sec. 1, art. IX. The propositions to make the office of superintendent of public instruction elective at the April election, to make him a member of the state board of education and other educational boards are not found in the existing constitution. The first change is designed to place his selection on the same basis as the selection of regents and judges, and the second is a recognition of certain present statutory provisions."

"SEC. 3. There shall be a board of regents of the university, consisting of eight members, who shall hold the office for eight years. There shall be elected at each regular biennial spring election two members of such board. When a vacancy shall occur in the office of regent it shall be filled by appointment of the governor."

"No change is made from sec. 6, art. XIII of the present constitution, except to improve the phraseology and to eliminate obsolete matter."

"SEC. 4. The regents of the university and their successors in office shall continue to constitute the body corporate known as 'The Regents of the University of Michigan.'"

"No change from sec. 7, art. XIII of the present constitution, except to improve the phraseology."

"SEC. 5. The regents of the university shall, as often as necessary, elect a president of the university. The president of the university and the superintendent of public instruction shall be ex-officio members of the board of regents, with the privilege of speaking but not of voting. The president shall preside at the meetings of the board and be the principal executive officer of the university. The board of regents shall have the general supervision of the university and the direction and control of all expenditures from the university funds."

"No change from sec. 8, Art. XIII of the present constitution except to improve the phraseology and make the superintendent of public instruction an ex-officio member of the board of regents with the power of speaking but not of voting. It was deemed desirable that the superintendent be given the same relation to the board of regents as he now occupies to the other educational boards of the state."

"SEC. 6. The state board of education shall consist of four members. On the first Monday in April, nineteen hundred nine, and at each succeeding biennial spring election, there shall be elected one member of such board who shall hold his office for six years from the first day of July following his election. The state board of education shall have general



supervision of the state normal college and the state normal schools, and the duties of said board shall be prescribed by law."

"No change from sec. 9, Art. XIII of the present constitution, except to provide for the election of members of said board at the spring election, and to improve the phraseology. Reference to the superintendent of public instruction is omitted, but by the provisions of section 2 of this article he is made one of the members of said board."

"SEC. 7. There shall be elected on the first Monday in April, nineteen hundred nine, a state board of agriculture to consist of six members, two of whom shall hold the office for two years, two for four years and two for six years. At every regular biennial spring election thereafter, there shall be elected two members whose term of office shall be six years. The members thus elected and their successors in office shall be a body corporate to be known as 'The State Board of Agriculture.'"

"This is a new section making the state board of agriculture a constitutional board, elected by the people, instead of a statutory board appointed by the governor as it has existed since 1861. The object of the change is to make it a non-partisan board as near as may be and secure its permanence."

"SEC. 8. The state board of agriculture shall, as often as necessary, elect a president of the agricultural college, who shall be ex-officio a member of the board with the privilege of speaking but not of voting. He shall preside at the meetings of the board and be the principal executive officer of the college. The board shall have the general supervision of the college and the direction and control of all agricultural college funds; and shall perform such other duties as may be prescribed by law."

"This is also a new section, supplementary to the preceding one. Its purpose is to define the organization, power and duties of the state board of agriculture."

"SEC. 9. The legislature shall continue a system of primary schools whereby every school district in the state shall provide for the education of its pupils without charge for tuition; and all instruction in such schools shall be conducted in the English language. If any school district shall neglect to maintain a school within its borders as prescribed by law for at least five months in each year, or to provide for the education of its pupils in another district or districts for an equal period, it shall be deprived for the ensuing year of its proportion of the primary school interest fund."

"This section covers secs. 4 and 5, Art. XIII of the present constitution. The change made is to the effect that if any school district does not maintain a school for five months in each year, instead of three months as now provided, such district shall forfeit its proportion of the 'primary school interest fund,' instead of the 'income of the primary school interest fund and of all funds arising from taxes for the support of schools,' as now provided. The purpose of the increase from three to five months is to provide for the better education of the young, and the provision as to forfeiture is changed so as to exclude everything except the primary school interest fund. The provision for the education of pupils in another district than that of their residence is to accommodate sparsely populated school districts."

"SEC. 10. The legislature shall maintain the university, the college of mines, the state agricultural college, the state normal college, and such state normal schools and other educational institutions as may be established by law."

"This is a new section and renders it mandatory upon the legislature to maintain the educational institutions therein specified."

"SEC. 11. The proceeds from the sales of all lands that have been or hereafter may be granted by the United States to the state for educational purposes and the proceeds of all lands or other property given by individuals or appropriated by the state for like purposes shall be and remain a perpetual fund, the interest and income of which, together with the rents of all such lands as may remain unsold, shall be inviolably appropriated and annually applied to the specific objects of the original gift, grant or appropriation."

"No change from sec. 2, Art. XIII of the present constitution."

"SEC. 12. All lands, the titles to which shall fall from a defect of heirs, shall escheat to the state, and the interest on the clear proceeds from the sales thereof shall be appropriated exclusively to the support of the primary schools."

"No change from sec. 3, Art. XIII of the present constitution."

"SEC. 13. The legislature shall appropriate all salt spring lands now unappropriated, or the money arising from the sale of the same, where such lands have already been sold, and any *funds or lands* which may hereafter be granted or appropriated for such purpose, for the support and maintenance of the agricultural college."

"Certain obsolete provisions relative to the establishment of an agricultural college, which appear in sec. 11, Art. XIII of the present constitution, are omitted in the revision of said section. The italicized words '*funds or lands*' are inserted to secure appropriated funds as well as lands to the purpose named."

"SEC. 14. The legislature shall provide by law for the establishment of at least one library in each township and city; and all fines assessed and collected in the several counties, cities and townships for any breach of the penal laws shall be exclusively applied to the support of such libraries."

"This section takes the place of sec. 12, Art. XIII of the present constitution, the only change being the insertion of the word '*cities*' and the elimination of the following: 'unless otherwise ordered by the township board of any township or the board of education of any city: Provided, That in no case shall such fines be used for other than library or school purposes.' The purpose of such elimination being to require the use of such funds for library purposes exclusively."

"SEC. 15. Institutions for the benefit of those inhabitants who are deaf, dumb, blind, feeble-minded or insane shall always be fostered and supported."

"No change from sec. 10, Art. XIII of the present constitution, except to insert the word '*feeble-minded*' for the purpose of making a constitutional provision for the care of this class of unfortunates as well as the others named."

- D 28. **Montana** (1907): Session Laws, 1907, p. 50, authorizing the establishment of county free high schools, *held* not objectionable as delegating legislative power to the voters of the counties.—Evers v. Hudson, 92 p., 462.

Constitution, art. 11, secs. 1, 11, held a mandate to the legislature to establish free common schools, etc., not a limitation on legislative power to provide for county free high schools.—*Ibid.*

- 29\*. **Nevada**: Providing for the reorganization of the system of school supervision and maintenance and repealing all conflicting acts.

Numerous amendments to existing statutes. Among important ones may be noted the following: Abolishing office of county superintendent and establishing office of deputy superintendent of public instruction, one for each of the supervision districts into which the State is divided; reorganizing the plan of examination and certification of teachers, such to be under the direction of state board of education and the board of educational examiners, created; creating office of city superintendent of schools for certain districts; increasing state school tax from 5 cents to 6 cents; modifying method of apportionment of state school money, using number of teachers as partial basis.

Chap. 182, Mar. 20, 1907. (Aug. 1, 1907.)

30. **New Jersey**: Amending sec. 126, chap. 1, acts, 1903 (sp. sess., Oct. 15), relating to schoolhouses, facilities, and accommodations.

Defining suitable school facilities and accommodations to mean, "proper school buildings, together with furniture and equipment, convenience of access thereto, and courses of study suited to the ages and attainments of all pupils between the ages of 5 and 20 years." Provision for within school district or by transportation of pupils.

Chap. 123, May 7, 1907.

- D 31. **New Jersey** (1905): On a controversy between a citizen and a local board of education respecting the public school to which the children of the citizen should be assigned, the remedies provided by school law, 1903 (P. L., 21), by application to the state superintendent of public instruction, must be exhausted before mandamus will issue.—*Stockton v. Board of Education of City of Burlington*, 59 A., 1061.

32. **New Mexico:** Revising and systematizing the school laws. Repealing and reenacting with amendments sundry sections. Compiled Laws, 1897, and sundry chapters, laws, 1901, 1903, and 1905.

Providing for the reorganization and compensation of the territorial board of education; prescribing its general powers and duties with reference to teacher's certificate, uniform text-books, course of study, teachers' institutes, etc.

Providing, also, for the appointment, term, salary, etc., of superintendent of public instruction and prescribing his general powers and duties.

Providing, also, for the election, qualifications, salary, etc., of county superintendents; for the creation and alteration of school districts; for tax levies for school purposes; for care of school lands. Prescribing certain conditions relative to payment of teachers' salaries (see enactment No. 859).

Chap. 97, Mar. 21, 1907.

- D 33. **New York (1905):** Charter city of Buffalo (laws, 1891, p. 210, chap. 105), sec. 334, in defining the duties of the school examiners, provides that they shall hold at least one stated meeting each month. Sec. 337 (p. 211) provides that the examiners shall hold stated examinations at such of their regular meetings as they may designate, and at least as often as once every three months, of all applicants, etc. *Held* that, there being no statute prohibiting the holding of such examinations on Saturday, or requiring the board to refrain from examining on that day persons who observe it as a day of worship, or to grant such persons a special examination on some other day, a Jewish applicant is not deprived of the equal protection of the law and discriminated against because of her race by being denied such examination on some day other than Saturday.—*Cohn v. Townsend*, 94 N. Y. S., 817.

- D 34. **New York (1908):** Laws, 1893, p. 1495, chap. 661, as amended by laws, 1900, p. 1484, chap. 667, sec. 2, being sec. 210 of the public health law, excluding children not vaccinated from the public schools, is not a violation of constitution, art. 1, secs. 1, 6, guaranteeing the citizen the protection of his rights, privileges, and liberties.—*Viemester v. White*, 72 N. E., 97.

Laws, 1893, p. 1495, chap. 661, as amended by laws, 1900, p. 1484, chap. 667, sec. 2, being sec. 210 of the public health law, excluding children not vaccinated from the public schools, is not in violation of the constitution, art. 9, sec. 1, providing for free common schools wherein all children of the State may be educated.—*Ibid.*

35. **North Dakota:** Providing for the revision and compilation of the school laws.

Authorizing attorney-general to revise, compile, arrange, simplify, and classify school laws. Report to legislature of 1900.

Chap. 102, Mar. 12, 1907.

36. **North Dakota:** Providing for a uniform system of accounting by state institutions, prescribing the books, forms, duties of the accounting officer, the state auditor, and institution treasurers with regard to such uniform system of accounting; also prescribing the form of checks and receipts to be used and the manner of accounting to the state auditor and the state treasurer.

Chap. 232, Mar. 13, 1907.

37. **Ohio:** Providing for the relief of sufferers from fire at a public school in Collinwood, Ohio.

Creating "Collinwood School Fire Relief Commission." Appropriating \$25,000.

H. B. 1224, p. 597, Mar. 6, 1908.

\* See "Recent decisions," at the close of this bulletin, for complete text of decision.

- D 38. Ohio (1904): New code, sec. 217 (96 Ohio Laws, p. 91), in so far as it provides for the mode or system of government of the Toledo University, who the directors shall be, and how they shall be appointed, necessarily abrogates so much of Rev. Stat., sec. 4105, as contains the provision that the matter shall be committed to the control of the board of education of the city school district, but it does not abrogate that portion of such section providing for the levy of taxes by the board of education.—*Waddick v. Merrell*, 26 Ohio Cir. Ct. R., 437.
- D 39. Ohio (1904): Act Apr. 25, 1904, attempting to re-create and legalize special school districts theretofore existing, was violative of constitution, art. 2, sec. 25, providing that all laws of a general nature shall have a uniform operation throughout the State.—*State v. Hickman*, 27 Ohio Cir. Ct. R., 216.
- D 40. Ohio (1905): Rev. Stat., 1892, sec. 3891, and Rev. Stat., 1892, sec. 3891-3928, as amended by act April 25, 1904 (97 Ohio Laws, p. 334), being an act to provide for the organization of the common schools and to amend, repeal, and supplement certain sections of the Revised Statutes, are unconstitutional, in so far as they declare to be legal and valid special school districts; special districts which have been created under the provisions of invalid special acts of the general assembly.—*Bartlett v. State*, 75 N. E., 939; 73 Ohio Stat., 54.
- D 41. Ohio (1907): Whether a rule or regulation adopted by a board of education under Rev. Stat., sec. 3986, empowering the board of education of any school district to make and enforce such rules and regulations to secure the vaccination of, and to prevent the spread of smallpox among, the pupils attending, or eligible to attend, the schools of the district, as in its opinion the safety and interests of the public require, is a reasonable rule or regulation, is to be determined in the first instance by the board of education, and the courts will not interfere unless it be clearly shown that there has been an abuse of its discretion.—(1907) *State v. Board of Education of Village of Barberton*, 81 N. E., 568; 76 Ohio Stat., 297, affirming judgment (1905) 29 Ohio Cir. Ct. R., 375.
42. Oklahoma: Constitutional provisions concerning education (adopted Sept. 17, 1907):

## ARTICLE XIII.

## EDUCATION.

"SECTION 1. The legislature shall establish and maintain a system of free public schools wherein all the children of the State may be educated:

"SEC. 2. The legislature shall provide for the establishment and support of institutions for the care and education of the deaf, dumb, and blind of the State.

"SEC. 3. Separate schools for white and colored children with like accommodations shall be provided by the legislature and impartially maintained. The term 'colored children,' as used in this section, shall be construed to mean children of African descent. The term 'white children' shall include all other children.

"SEC. 4. The legislature shall provide for the compulsory attendance at some public or other school, unless other means of education are provided, of all the children in the State who are sound in mind and body, between the ages of eight and sixteen years, for at least three months in each year.

"SEC. 5. The supervision of instruction in the public schools shall be vested in a board of education, whose powers and duties shall be prescribed by law. The superintendent of public instruction shall be president of the board. Until otherwise provided by law, the governor, secretary of state, and attorney general shall be ex-officio members, and with the superintendent, compose said board of education.

"SEC. 6. The legislature shall provide for a uniform system of text books for the common schools of the State.

\* See p. 78 for provision concerning school lands.



"Sec. 7. The legislature shall provide for the teaching of the elements of agriculture, horticulture, stock feeding, and domestic science in the common schools of the State."

43. **Oklahoma:** Making it an offense punishable by fine and removal from office for any executive, legislative, ministerial, or judicial officer of this State, district, county, city, or other municipal subdivision of the State, to appoint or vote for the appointment of any person related to him by affinity or consanguinity within the third degree, to any clerkship, office, position, employment, or duty in any department of the government of which such executive, legislative, ministerial, or judicial officer may be a member; or any person so related to any other such officer in consideration of the appointment or vote for the appointment by such other officer of any person so related to the officer making or voting for such appointment; prohibiting the payment of any such ineligible person out of any public funds, and providing for suitable punishment and removal from office for the violation of this act.

Including public-school trustees, officers, and boards of managers of the State University and its several branches, and state normal schools within the enumerated list of officials to whom act applies.

Chap. 60, S. B. 300, p. 573, May 8, 1908.

44. **Oklahoma:** Providing for separate schools and school officers for the white and colored races, and fixing a penalty for the violation thereof.

Defining "white" and "colored" schools. Providing for separate boards of school officers for each, and prescribing penalties for teachers violating provisions for separate schools. Prescribing maintenance of private schools on separate basis, and prohibiting white persons from attending colored schools or colleges.

Chap. 77, H. B. 365, p. 604, May 5, 1908.

- D 45. **Oklahoma (1904):** Act March 8, 1901 (acts, 1901, p. 205, c. 28, art. 9), providing for separate schools for white and colored children, and that schoolhouses shall be built by the county; but that it shall be at no expense on account thereof, but the school district shall keep such in repair, and the county shall be at no expense where districts at the passage of the act have schoolhouses for that class of children, white or colored, that are fewer in number in the district, is not unconstitutional because of interference with property rights without just compensation.—Board of Education of City of Kingfisher v. Board of Commissioners of Kingfisher County, 78 P., 455, 14 Okl., 322.

School districts which include cities of the first class may, without special authority, erect in the district such buildings as may be deemed advisable for the separate use of white and colored children, regardless of the question whether or not they had the legal right to prohibit colored children from attending a white school.—Board of Education of City of Kingfisher v. Board of Commissioners of Kingfisher County, 78 P., 455, 14 Okl., 322.

46. **Oregon:** Authorizing superintendent of public instruction to annotate and compile the school laws of the State.

H. Jt. Res. No. 17, p. 504, Feb. 20, 1907.

47. **Pennsylvania:** Providing for the appointment of a commission by the governor, for the purpose of amending, revising, and collating the laws touching upon the public schools of the State, and for the further purpose of suggesting new legislation for the welfare of said schools, and making an appropriation of \$5,000 to meet the expenses of said commission.

Jt. Res. No. 140, May 8, 1907.

48. **Pennsylvania:** Appropriating \$1,750 for the payment of the expenses of the senatorial committee appointed Mar. 15, 1907, for the purpose of making

an investigation of the school system of the first school district of Pennsylvania upon complaints of the citizens thereof.

Act No. 368, June 13, 1907.

- D 49. **Pennsylvania (1905)**: A decision of school directors that certain children are not residents of the district and entitled to attend school therein can not be reviewed by a court and jury.—*Commonwealth v. Wenner*, 61 A., 247; 211 Penn., 637.

50. **Tennessee**: Creating a joint legislative committee of seven to report on legislation with reference to a uniform system of public schools.

p. 2237, Feb. 2, 1907.

51. **Virginia**: Amending and reenacting sec. 1472, code, 1904, as amended, relative to school officers and teachers not having any pecuniary interest in schoolbooks, appliances, furniture, or supplies; exceptions; neither school or corporation officers to discount warrants.

Excepting merchants selling in the regular course of business books selected and adopted by the state board of education.

Chap. 106, Mar. 12, 1908.

52. **Virginia**: Providing for a commission to devise a stable method for the maintenance, management, and expansion of the educational institutions of the State.

Commission of seven, including four experienced educators, to be appointed by governor. Report next session.

Chap. 272, Mar. 13, 1908.

53. **Washington**: Creating a commission to revise and recodify the code of public instruction, defining its powers and duties, and making an appropriation.

Report to legislature of 1908. Maximum expenditure, \$500.

Chap. 141, Mar. 12, 1907.

54. **West Virginia**: Amending and reenacting chap. 45, code, 1906, relative to education.<sup>a</sup>

Chap. 27, Mar. 6, 1908.

55. **Wisconsin**: Relating to greater harmony between state and national education.

"Whereas, Education is at the basis of all progress in our country;

"Whereas, We have in the States not yet touched upon the great problem of universal education;

"Whereas, The cooperation of the State and nation is more needed now than ever because of the great mass of immigration flowing into this country;

"Be it resolved, That our representatives in Congress be hereby memorialized that they use their best efforts to bring about an amendment to the Federal Constitution empowering Congress to pass proper legislation establishing a harmonious system of education and to establish and maintain conjointly with the States a national system of education."

Joint Res. No. 36, p. 1295, 1907.

- D 56. **Wisconsin (1908)**:<sup>b</sup> The discretion of school authorities in government and discipline of pupils is very broad, and the courts will not interfere with the exercise of such authority, except when illegally or unreasonably exercised.—*State v. District Board of School Dist. No. 1*, 116 N. W., 232.

<sup>a</sup> This measure revises the entire school law of the State. It contains 270 separate sections, and owing to its great length it has been found to be inexpedient to analyze and present in classified manner the numerous and, in many instances, important changes brought about. According to the estimate of the state superintendent, Mr. Thomas C. Miller, the following items represent the most important modifications introduced: (a) District supervision; (b) consolidation of schools; (c) increased salaries for teachers; (d) a state board of education; (e) state aid to weak school districts; (f) more rigid compulsory education.

<sup>b</sup> See "Recent decisions," at the close of this bulletin, for complete text of decision.

57. Wisconsin: Proposing amendment to sec. 3, art. 10, of the constitution, relating to the school age.

Fixing school age 6 to 20 (formerly 4 to 20).

Jt. Res. No. 23, p. 1288, 1907.

(b) State Boards and Officers.

The legislation of the biennium concerning state boards and officers continues to display a continued endeavor to increase their efficiency and expand their influence, especially so in the case of the state superintendent of public instruction. In evidence of this may be pointed out the enactments in Arizona (59), Louisiana (72), Maine (74), Mississippi (79), Montana (81), Pennsylvania (96), Utah (105), Virginia (107), Washington (109), providing for considerably increased salaries for this officer, as well as the enactments in Arizona (60), (61), Connecticut (65), North Dakota (89), Rhode Island (98), (99), Utah (104), Vermont (106), Washington (110), and Wisconsin (114), (115), providing for increased sums for clerical expenses and increased compensation for assistants, deputies, and inspectors.

The new code of West Virginia (54) provided for a state board of education. California proposed a constitutional amendment relative to the constitution of the state board of education, so as to permit of the wider representation of the several educational interests of the State. Massachusetts (76) amended the act creating the commission on industrial education, passed in 1906, so as to admit the appointment of one woman.

Even a brief review of the legislation of this group would include specific mention of the organization of state text-book commissions in Idaho (68), Montana (80), Nevada (82), and Oklahoma (93).

The interpretations placed by the highest courts of Maryland (D 75) and New York (D 87), (D 88), upon the statutes regulating the powers of state boards and state superintendents will have a tendency to dignify as well as increase the responsibility of these officers. The decision in the case of the State of Florida *v. Bryan* (D 67) was of much importance to the higher educational interests of that State.

58. Alabama: See enactment No. 114.

59. Arizona: Amending sec. 19, act No. 80, acts, 1903, relative to the office and salary of superintendent of public instruction.

Increasing annual salary from \$1,800 to \$2,000.

Sec. 8, chap. 67, Mar. 21, 1907. (July 1, 1907).

60. Arizona: Amending subdv. 6, sec. 17, act No. 89, acts, 1903, relative to duties of superintendents of public instruction.

Increasing allowance for printing annual report from \$350 to \$500.

Sec. 9, chap. 67, Mar. 21, 1907. (July 1, 1907).

61. **Arizona:** Amending subdiv. 4, sec. 17, act No. 89, acts, 1903, relative to the duties of the superintendent of public instruction.

Defining in greater detail duties regarding the preparation, printing, and furnishing of blank forms, registers, certificates, courses of study, examination questions, etc. Increasing annual allowance for same from \$800 to \$1,000.

Sec. 14, chap. 67, Mar. 21, 1907. (July 1, 1907).

62. **Arkansas (1907):** Under constitution, 1874, art. 19, sec. 19, making it the duty of the general assembly to provide by law for the support of institutions for the education of the deaf, dumb, and blind, and for the treatment of the insane, the legislature had power to make the superintendent of the Arkansas School for the Blind a public officer, notwithstanding sec. 9, forbidding the general assembly to create any permanent state offices not provided for in the constitution.--Lucas v. Futrell, 106 S. W., 667.

63. **California:** Proposing amendment to sec. 7, art. 9 (constitution, 1879, as amended Nov. 6, 1894), relative to state and county boards of education.

Changing composition of state board of education so as to provide for wider representation of the several educational interests of the State.--

Jt. Res., chap. 43, p. 1369, Mar. 14, 1907.

Defeated, November, 1908.

64. **California:** Amending sec. 1532, political code, 1906, relative to the duties of the superintendent of public instruction.

Report of total number of children in State between 5 and 17 years of age to be made to the controller in August (formerly July).

Chap. 53, Mar. 1, 1907.

65. **Connecticut:** Amending sec. 4811, statutes, 1902, as amended by chap. 251, public acts, 1905, concerning the salary of the chief clerk of the state board of education.

Increasing maximum salary allowed from \$1,800 to \$2,500.

Chap. 7, Mar. 20, 1907.

66. **Connecticut:** Repealing sec. 124, statutes, 1902; chaps. 7 and 55, acts, 1903; and chaps. 26 and 29, acts, 1905, concerning the printing of public documents.

Fixing number of printed reports of all state officers and boards.

Commissioner of the school fund, 1,000 copies; state board of education, 6,000 copies; Connecticut Agricultural Experiment Station, 12,000; Agricultural College, 1,000; Storrs Agricultural Experiment Station, 7,000.

Chap. 133, June 21, 1907.

67. **Florida (1905):** Laws, 1905, chap. 5384, abolishing the Florida Agricultural College, officially designated as the University of Florida, and other schools, and providing for the creation of a board of control to manage all of the several institutions created and provided to be supported and maintained by the act, does not conflict with act of Congress July 2, 1862, chap. 130, 12 Stat. 503, which donated lands for the support of a college where the leading objects should be instruction in agriculture and the mechanic arts and military tactics.--State v. Bryan, 39 So., 920.

68. **Idaho:** See enactment No. 1146.

69. **Iowa:** Amending sec. 168, code supplement, 1902, concerning the furnishing of supplies and postage to state officials by the executive council.

Including among such the educational board of examiners.

Sec. 1, chap. 6, Apr. 4, 1907.

70. **Iowa:** Amending sec. 2634a, code supplement, 1902, relative to compensation of members and officers of the board of educational examiners.

Sec. 4, chap. 6, Apr. 4, 1907.

71. **Kansas:** Amending sec. 6457, statutes, 1901, relative to state text-book commission...

Not more than five (formerly three) of the eight members to be of one political party.

Chap. 328, Mar. 9, 1907.

72. **Louisiana:** Proposing an amendment to art. 249, constitution, relating to the office of the state superintendent of public education.

Increasing annual compensation from \$2,000 to \$5,000. Removing limitation imposed on office expenditures.—Adopted, November, 1908.

Act No. 28 (Jt. Res.), June 20, 1908.

73. **Louisiana:** Amending and reenacting sec. 3, act 214, acts, 1902, relative to powers of state board of education.

Striking out provisions relative to appointment of parish school directors, and the making of rules and regulations for the government of public schools. Preference to be given to Louisiana publications in adopting text-books.

Act No. 231, July 8, 1908.

74. **Maine:** Increasing the salary of state superintendent of schools and further defining his duties.

Annual salary fixed at \$2,500 (formerly \$1,500, chap. 307, acts, 1889; sec. 1, chap. 116, Revised Laws, 1903). Actual cash expenses incurred in the performance of official duties to be paid out of specific appropriation. Official duties to be performed at the seat of government.

Chap. 171, Mar. 27, 1907.

- 74a. **Maryland:** Amending sec. 171, chap. 356, acts, 1906, relative to assistant superintendent of public instruction.

Increasing annual compensation from \$1,500 to \$2,000.

Chap. 491, D. 225, Apr. 8, 1908.

1975. **Maryland (1906):** Code Pub. Gen. Laws, 1901, art. 77, sec. 11, providing that the state board of education shall, to the best of their ability, cause the provisions of the article to be carried into effect, that they shall explain the true intent and meaning of the law, and shall decide, without expense to the parties concerned, all controversies and disputes arising under it, and that their decisions shall be final, constituted a valid exercise of legislative power, and conferred visitorial powers on such state board of education over school matters in the State.—*Underwood v. Board of County School Commissioners of Prince George County*, 63 A. 221, 103 Md. 181; *Nally v. Underwood*, Id.

76. **Massachusetts:** See enactment No. 1280.

77. **Minnesota:** Providing for a board for the investment of the permanent school, permanent university, and other permanent trust funds.

Defining membership and powers.

Chap. 340, Apr. 23, 1907.

78. **Minnesota:** Establishing a state board of visitors for the public institutions in the State.

Providing for constitution of board. Applies to charitable and correctional institutions.

Chap. 441, Apr. 25, 1907.

79. **Mississippi:** Fixing the salary of the state superintendent of education.

Increasing annual salary from \$2,000 to \$2,500. (Amending chap. 134, laws, 1904, sec. 4476, code, 1906.)

Chap. 145, Feb. 20, 1908.

80. **Montana:** See enactment No. 1148.

81. **Montana:** Amending sec. 1716, political code, 1895, relative to salary of superintendent of public instruction.

Increasing annual salary from \$2,500 to \$3,000.

Chap 116, Mar. 6, 1907. (Jan., 1909.)

82. **Nevada:** See enactment No. 1149.

83. **New Jersey:** Creating a department of public reports.

Providing for a commissioner, and prescribing salary and duties. All official reports to be examined, edited, and indexed. Approval of reports before printing.

Chap. 211, Apr. 13, 1908.

- D 84. **New Jersey (1905):** Under acts, 1902, p. 72, sec. 10, the state superintendent of schools has power to decide all controversies under the school laws as to the election of members of the board of education of certain municipalities, subject to appeal to the state board of education.—*Du Four v. State Supt. of Public Instruction*, 61 A., 258.

85. **New Mexico:** See enactment No. 1149.

86. **New York:** See enactment No. 1595.

- D 87. **New York (1906):** While no express authority was given the state superintendent of public instruction under Consolidated School Law, Laws, 1894, p. 1181, chap. 556, to establish regulations as to the management of public schools, he has the power to make such regulations as are consonant with the general purpose of the statute and not inconsistent with the laws of the state.—*O'Connor v. Hendrick*, 77 N. E., 612.

A regulation of the superintendent of public instruction prohibiting teachers in public schools from wearing a distinctly religious garb while teaching therein is a reasonable and valid exercise of the powers conferred upon him to establish regulations as to the management of public schools, because the influence of such apparel is distinctly sectarian, and the prohibition is in accord with the public policy of the state, as declared in constitution, art. 9, sec. 4, forbidding the use of property or credit of the state in the aid of sectarian influences.—*Ibid.*

- D 88\*. **New York (1908):** The jurisdiction of the commission of education applies to the common schools of cities of the second class, including the city of Troy, so that an appeal from an order dismissing a proceeding to remove a superintendent of schools of such city was properly taken to such commissioner, under laws, 1894, p. 1181, chap. 556, as amended by laws 1904, p. 94, chap. 40, conferring on the commissioner of education the powers and duties of superintendent of public instruction previously exercised by such superintendent, including the power to determine such appeals.—*Harris v. Draper*, 109 N. Y. Sup., 983.

Under laws, 1894, p. 1181, chap. 556, as amended by laws, 1904, p. 94, chap. 40, conferring on the commissioner of education authority to hear appeals of any person considering himself aggrieved in consequence of any decision of a board of education with reference to the common schools of the state, it is the duty of the appellant to establish before the commissioner that he is in fact a party aggrieved by the decision appealed from.—*Ibid.*

89. **North Dakota:** Providing for the payment of the necessary expenses of state officers.

Allowing state superintendent among other state officers \$500 for expenses incurred in discharge of duties. To be paid quarterly without filing itemized statement.

Chap. 30, Mar. 4, 1907.

\* See "Recent decisions," at the close of this bulletin, for complete text of decision.



90. **North Dakota:** Amending sec. 747, Revised Codes, 1905, relative to qualifications of state superintendent of public instruction.

Must be the holder of a state certificate of the highest grade issued in the state (formerly, *some* state).

Sec. 1, chap. 95, Mar. 19, 1907.

91. **North Dakota:** Requiring the governor to furnish each legislative assembly a financial and statistical report on state institutions.

Prescribing items of such reports, requiring trustees of institutions to furnish data demanded by the governor, and providing for payment of clerical and printing costs.

Chap. 233, Mar. 19, 1907.

92. **Ohio:** Providing for an investigation of charges against members of the board of state school examiners and the state commissioner of common schools.

S. J. Res. 55, p. 620, Feb. 6, 1908.

93. **Oklahoma:** *See enactment No. 1151.*

94. **Oklahoma:** Converting to the use of the state board of education all funds in the hands of the state treasurer from territorial funds now placed to their credit.

Fixing salary and mileage of members.

Chap. 5, S. B. 352, p. 101, May 23, 1908.

95. **Oregon:** Amending sec. 3449, Bellinger and Cotton's Annotated Codes and Statutes, 1901, relative to sessions of board of state text-book commissioners.

Changing sexennial sessions from July to June.

Chap. 13, Feb. 8, 1907.

96. **Pennsylvania:** Fixing the salary of the superintendent of public instruction and of the deputy superintendents of public instruction.

Raising salary of state superintendent from \$4,000 to \$5,000, and fixing that of deputies at \$2,000 per year.

Act No. 71, Apr. 15, 1907.

97. **Pennsylvania:** Amending par. X, sec. 1, No. 130, acts, 1905, regulating the publication, binding, and distribution of public documents.

Authorizing the publication annually of 5,000 additional copies of the report of the superintendent of public instruction, and 15,000 additional copies, biennially, of school laws and decisions.

Act No. 201, May 28, 1907.

98. **Rhode Island:** Amending sec. 1, chap. 978, acts, 1891 (sec. 2, chap. 52, General Laws, 1896), relative to clerical assistance for the commissioner of public schools.

Chap. 1473, Apr. 23, 1907.

99. **Rhode Island:** Amending sec. 14, chap. 51, General Laws, 1896, relative to state board of education.

Members and secretary of board to be paid necessary expenses incurred in discharge of official duties.

Chap. 1534, Apr. 21, 1908.

100. **South Dakota:** Repealing chap. 22, Revised Political Code, 1903 (chap. 113, laws, 1901), chaps. 75, 126, 127, 128, 129, 130, 131, 132, and 133, laws, 1903, and chaps. 68, 99, 100, 102, 103, 168, and 162, laws, 1905, relating to public education; and establishing a uniform system of education for the state.

Prescribing the powers and duties of the superintendent of public instruction, and providing for the issuance, renewal, validation, and

revocation of state certificates and life diplomas to teach by such officer. Providing for the election, qualifications, and graded compensation of county superintendents of schools; prescribing the general and special powers and duties of such officers. Providing for the organization and government of school districts, for the election, qualifications, compensation, officers, powers, and duties of district school boards. Defining the school year, month, and day, and providing for the conditions of employment and general duties of teachers. Providing for the compulsory education of children; for the issuance of school bonds, for the organization and government of independent school districts in cities, towns, and adjacent territory, for school libraries, and for township high schools. Providing also for the organization of a county board of education for the purpose of selecting and adopting uniform text-books. Sundry other provisions.

Chap. 135, Mar. 13, 1907.

101. Tennessee: Amending subsec. 12, sec. 7, chap. 25, acts, 1873, relative to the duties of the state superintendent.

Providing for biennial (formerly annual) reports to the governor. Statistical tables to be printed annually.

Chap. 153, Mar. 21, 1907.

102. Texas: See enactment No. 1153.

103. Utah: See enactment No. 1160.

104. Utah: Amending sec. 1774, Revised Statutes, 1898, as amended by chap. 54, Laws, 1901, relative to the election of state superintendent of public instruction, his qualifications, and the appointment and compensation of his deputy.

Deputy superintendent to be paid traveling expenses (formerly \$100 per annum); to represent superintendent at teachers' institutes.

Chap. 41, Mar. 14, 1907.

105. Utah: Amending sec. 1, chap. 73, Laws, 1901, relative to the salaries of certain state officers.

Increasing annual salary of state superintendent of public instruction from \$1,800 to \$2,400.

Chap. 2, Mar. 14, 1907.

106. Vermont: Amending in a minor manner sec. 4, act No. 9, acts, 1888 (sec. 597, chap. 32, Public Statutes, 1894), relative to expenses of superintendent of education.

Sec. 3, No. 43, Dec. 18, 1906. (Apr. 1, 1907.)

107. Virginia: Appropriating the public revenue for the two fiscal years ending Feb. 28, 1909, and Feb. 28, 1910.

Increasing annual compensation of state superintendent from \$2,800 to \$3,500 (p. 423). Increasing authorized annual amount for summer normal institutes from \$5,000 to \$15,000. Appropriating \$100,000 annually for high schools; \$20,000 annual maximum for establishment of departments of agriculture, domestic economy, and manual training in at least one high school in each congressional district.

Chap. 284, p. 431, Mar. 14, 1908.

108. Virginia: Amending and reenacting secs. 1433 and 1438, Code, 1904, as amended, relative to the duties of the state board of education.

Providing for the establishment of school divisions so as to insure an annual salary of not less than \$900 for division superintendents. Exceptions. Requiring division superintendents of schools to devote themselves exclusively to discharge of duties of office. Exceptions. Modifying conditions relative to the adoption and change of text-books.

Chap. 282 (in part), Mar. 14, 1908.



109. **Washington:** Fixing the annual salaries of the several state officers and providing the manner of payment.  
Salary of superintendent of public instruction fixed at \$3,000.  
Chap. 94, Mar. 9, 1907.
110. **Washington:** Amending sec. 22, chap. 118, Laws, 1897 (Code of Public Instruction), relative to the powers and duties of the superintendent of public instruction.  
Annual reports; traveling expenses. Making superintendent ex officio member of state board of higher education. County superintendent to attend annual convention; mileage. Basis of apportionment of school funds.  
Sec. 1, chap. 240, Mar. 18, 1907.
111. **Washington:** Amending sec. 24, chap. 118, Laws, 1897 (Code of Public Instruction), relative to the state board of education.  
Deputy superintendent to be secretary of board.  
Sec. 2, chap. 240, Mar. 18, 1907.
112. **Washington:** Amending sec. 27, chap. 118, Laws, 1897 (Code of Public Instruction), relative to the powers and duties of the state board of education.  
Striking out clause relative to adoption of uniform text-books. Providing for investigation of standards of schools outside of the State, and the preparation of a list of accredited certificates and diplomas for the granting of certificates and diplomas without examination.  
Sec. 3, chap. 240, Mar. 18, 1907.
113. **Washington:** Amending sec. 28, chap. 118, Laws, 1897 (Code of Public Instruction), relative to state board of higher education.  
Making deputy superintendent secretary of board; defining his duties. Deputy superintendent to act as inspector of accredited schools. Meetings of board.  
Sec. 4, chap. 240, Mar. 18, 1907.
114. **Wisconsin:** Appropriating \$500 for library, and material and apparatus for lectures in the office of the state superintendent of public instruction.  
Chap. 103, May 15, 1907.
115. **Wisconsin:** Amending sec. 170, Statutes, 1898, relating to the salaries of persons employed in the office of state superintendent of public instruction; amending sec. 11, chap. 430, Laws, 1901; amending chap. 499, Laws, 1905; repealing sec. 3, chap. 297, Laws, 1899.  
Providing for two additional stenographers in the state superintendent's office.  
Chap. 472, July 2, 1907.

#### (c) County Boards and Officers.

The legislative enactments relating to county boards and officers may be roughly divided into three groups. First, are those relative to the qualifications: Minnesota (139), New Mexico (145), North Dakota (150), (151), and Virginia (173), and those relative to the increased compensation: Florida (125), Missouri (141), South Carolina (158), Virginia (108), and West Virginia (180), of county superintendents of schools. Within this subdivision might properly come those relating to increased traveling expenses and clerical assistance for that officer: Minnesota (136), Montana (142), New Jersey (144), and North Dakota (152).

Second, are those enactments relative to the organization and supervision of education on the basis of the county as a unit. Arkansas (120) and Texas (166) adopted a permissive plan of county supervision. Kentucky reorganized the system of common schools, making the county the basal unit. North Carolina (148) and Tennessee (162) provided for the organization of county boards of education.

Third, are those providing for the organization of so-called county school-board conventions: Oregon (155) and Washington (179). The enactments of these two States increase to seven the number of States that have established these annual meetings of the officers and the members of the boards of the various school districts in every county, with the significant provisions of obligatory attendance and nominal compensation. No movement in public-school organization and administration seems to promise so much for the future development of the efficiency of the rural school as does this one relative to the school-board conventions.

116. Alabama: Amending sec. 10, act No. 365, p. 289, Laws, 1903, providing for the redistricting and management of the public schools.

Defining eligibility for membership on county board of education. Providing for payment of incidental expenses of county board of education.

Sec. 3, act No. 358, p. 480, July 17, 1907. (Sec. 1712, Code, 1907.)

117. Alabama: Amending sec. 17, act No. 365, p. 289, Laws, 1903, providing for the redistricting and management of the public schools.

Changing method of filling vacancies in county boards of education and district boards of trustees.

Sec. 5, act No. 358, p. 481, July 17, 1907. (Sec. 1714, Code, 1907.)

D 118. Alabama (1906): Under Laws, 1903, p. 292, sec. 11, relating to the redistricting of public schools, providing that the county boards of education shall have the entire control of the public schools within their respective counties unless otherwise provided by law, and shall make rules and regulations for the government of the schools; see that the teachers perform their duties, and exercise such powers consistent with the law, as, in their judgment, will best subserve the cause of education, the matter of the location of schools in the several districts does not come within the powers conferred on the district trustees, but such power belongs to the county board.—Gibson v. Mabrey, 40 So., 207.

119. Arizona: Amending subdiv. 13, par. 2149 (sec. 20), chap. 4, tit. 19, Revised Statutes, 1901, relative to duties of county superintendent of schools.

Providing that county superintendent must visit and examine each school in the county at least twice each year (formerly twice each year for counties of the first class and once each term for others). Ten dollars deduction from salary for failure to visit any schools.

Providing for visitation by deputy in certain cases. Increasing maximum allowance for traveling expenses from \$150 to \$250.

Sec. 7, chap. 67, Mar. 21, 1907. (July 1, 1907.)

120. Arkansas: Creating the office of county superintendent.

Providing for referendum vote in counties upon question of county supervision. Providing for the election, qualifications, salaries, powers, and duties of county superintendents. County superintendent to supersede present county examiner.

Act No. 399, May 27, 1907.

121. **California:** Amending sec. 1770, Political Code, 1906, relative to duties of county boards of education.

Providing that county boards of education shall meet semiannually instead of annually. Examination of applicants for certificates to teach to be held at the semiannual meetings.

Chap. 156, Mar. 9, 1907.

122. **California:** Repealing and reenacting with amendments tit. 2, part 4, Political Code, 1906, relative to the establishment of a uniform system of county and township governments.

Chap. 7, pp. 410-411.—Department of education. The superintendent of schools and board of education to have the powers and perform the duties prescribed by law. The school department to comprise such public schools as are established and provided for by the Political Code.

Chap. 10, p. 415 ff.—Salaries. Prescribing, among those of other county officers, salaries of county superintendents of schools and county boards of education, for the several (57) classes of counties.

Chap. 282, Mar. 18, 1907.

123. **Delaware:** Providing a fund for county superintendents of schools to pay necessary expenses of visiting schools.

Annual appropriation of \$300 to each county superintendent.

Chap. 37, Mar. 21, 1907.

124. **Florida:** Amending sec. 344, Statutes, 1906, relative to the compensation of the members of county school boards.

Increasing compensation from two to four dollars per day, for each day's service.

Chap. 5656 (No. 61), May 27, 1907.

125. **Florida:** Regulating salaries of county superintendents of public instruction.

Salaries to be based upon the total annual receipts of each county for school purposes including special school district taxes, and excepting borrowed money.

Chap. 5658 (No. 63), June 3, 1907. (July 1, 1907.)

126. **Idaho:** Amending sec. 14, H. B. No. 164, Laws, 1899, establishing the office of county superintendent of public instruction and prescribing the duties thereof.

Allowing county superintendent, for the examination of teachers, not to exceed two assistants, who shall receive four dollars per day.

S. B. No. 30, p. 323, Mar. 13, 1907.

127. **Illinois:** Amending sec. 21, art. 2, p. 237, acts, 1889, relative to powers and duties of county superintendent.

Modifying method of apportionment and distribution of principal, interest, and profit on public funds.

H. B. 860, p. 521, May 17, 1907.

128. **Indiana (1907):** Burns' Ann. St. 1901, sec. 5905f, empowering the county superintendent of schools to revoke a teacher's license for designated grounds, held not in conflict with constitution, art. 1, sec. 12.—Stone v. Fritts, 82 N. E., 792.

Statutes conferring on a ministerial officer power to issue and to revoke licenses are not invalid, and do not clothe such officer with judicial power.—*Ibid.*

Burns' Ann. St. 1901, sec. 5905f, empowering county superintendents of schools to revoke teachers' licenses, held not to confer on the superintendent judicial power in violation of constitution, art. 3.—*Ibid.*

\* See "Recent decisions," at the close of this bulletin, for complete text of decision.

- D 129. **Iowa (1906)**: Where a board of high school directors had power to adopt and promulgate a rule prohibiting the playing of football by pupils of the high school, finding by the board that petitioner had violated the rule and that his apology tendered was insufficient to purge his offense were reviewable only by appeal to the county superintendent, as provided by Code, Sec. 2818.—Kinzer v. Directors of Independent School Dist. of Marion, 105 N. W., 680.
- D 130. **Iowa (1907)**: Under acts, Thirty-first General Assembly, p. 87, chap. 122, enacted April 5, 1906, taking effect October 1, following, expressly repealing Code, secs. 2735-2737, relating to teachers' certificates issued by the county superintendent, etc., and prescribing that the county superintendent shall be the holder of a first-grade certificate or a state certificate or a lawful diploma, and providing for the issuance of first-grade certificates to persons complying with specified conditions, and for the renewals of a first-grade certificate issued prior to the taking effect of the act on the holder thereof complying with specified conditions, etc., one holding a two-years' certificate issued August 30, 1906, under sec. 2737, is not eligible to the office of county superintendent.—State v. Huegle, 112 N. W., 234.
131. **Kansas**: Repealing and enacting a substitute for sec. 1, chap. 202, Laws, 1903, relative to county superintendents of public instruction.  
Omitting holders of a second-grade certificate from among those eligible.  
Chap. 167, Mar. 9, 1907.
132. **Kansas**: Repealing and reenacting with amendments sec. 3, chap. 432, Laws, 1903, relative to the compensation of county high school trustees.  
Payment to be made from county high school fund instead of from county treasury.  
Chap. 334, Mar. 8, 1907.
133. **Kentucky**: Relative to the government and regulation of the common schools.  
Making the county the unit of school organization and government. Providing for the division of counties into educational divisions and the further subdivision of the latter into subdistricts, subdistricts not to include, except in cases of emergency, fewer than 50 white children of school age, nor in any case fewer than 40 such children. Providing for the election of one trustee for each subdistrict, for the organization of division boards therefrom and the duties thereof. Constituting the chairmen of the several educational division boards in each county, together with the county superintendent of schools, as a county board of education, and prescribing the powers, duties, compensation, etc., thereof. Providing for the establishment and support of county high schools.  
Chap. 56, Mar. 24, 1908.
134. **Michigan**: Amending sec. 2, act No. 147, acts, 1891 (sec. 4800, Compiled Laws, 1897), as amended by No. 35, acts, 1901, and by No. 189, acts, 1905, relative to the election of county commissioner of schools.  
Making special provision for Lake County.  
Act No. 115, May 28, 1907.
135. **Michigan**: Amending sec. 8, act No. 147, acts, 1891 (sec. 4815, Compiled Laws, 1897), relative to the duties of the county commissioner of schools.  
Prescriptions concerning records of meetings and hearings of the board of examiners; calls for special meetings; reports of school visitation. Providing in districts of over 120 schools for the appointment of visiting assistants by commissioner; in other districts appointment with consent of board of supervisors.  
Authorizing examinations and auditing of books and records of any school district at any time when so directed by the superintendent of public instruction or upon application of any school board. Other minor revisions.  
Act No. 127, June 5, 1907.

- 136\*. **Minnesota:** Authorizing county boards to audit and allow traveling expenses of county superintendents of schools and assistants.  
Chap. 33, Mar. 8, 1907.
137. **Minnesota:** Creating county boards of education for unorganized territory and defining scope and powers.  
Chap. 76, Mar. 28, 1907.
138. **Minnesota:** Amending sec. 1396, Revised Laws, 1905, relative to examinations by the state high school board.  
Providing for the appointment of not to exceed one assistant to the county superintendent for each township (formerly, one for each four townships).  
Chap. 341, Apr. 23, 1907.
- 139\*. **Minnesota:** Proposing an amendment to sec. 7, art. 7, state constitution (1857), relative to eligibility to office.  
Excepting county superintendents and prescribing such qualifications as may be required by the legislature.  
Chap. 480, Apr. 24, 1907.  
Defeated, November, 1908.
140. **Missouri:** See enactment No. 1147.
141. **Missouri:** Amending sec. 9813, art. 1, chap. 154, Revised Statutes, 1899, relative to compensation of county superintendent of schools.  
Increasing annual compensation in counties wherein the number of children of school age is 9,000 and less than 14,000, from \$900 to \$1,000; in counties wherein the number of children of school age is 14,000 or more, from \$1,000 to \$1,500.  
H. B. No. 631, p. 432, Mar. 20, 1907.
142. **Montana:** Allowing traveling expenses of county superintendent of schools.  
Authorizing annual allowance of \$300.  
Chap. 27, Feb. 21, 1907.
143. **Nevada:** See enactment No. 29.
144. **New Jersey:** Providing and furnishing an office for county superintendents of schools at the county seats.  
Authorizing annual appropriation of \$500 in each county for clerical assistance to said officer.  
Chap. 317, Apr. 16, 1908.
145. **New Mexico:** See enactment No. 32.
146. **New Mexico:** Amending sec. 1527, Compiled Laws, 1897, relative to the duties of county superintendents of schools in respect to new school districts.  
Providing for the selection of school directors by county superintendent in certain cases.  
Chap. 99, Mar. 21, 1907.
147. **North Carolina:** Appointing certain persons as members of the county board of education in the several counties of the State.  
Chap. 260, Mar. 11, 1907.
148. **North Carolina:** Constituting school committees and prescribing powers, duties, and qualifications.  
Defining duties of county board of education and prescribing qualifications and minimum salary (\$40) of high school teachers.  
Providing for attendance of pupils upon existing high schools and for the payment of tuition from school funds. State aid equal to amount of local appropriation; maximum aid \$500. Schools not to be established in towns.



Establishing East Carolina teachers' training schools for the training of young white men and women. Providing for location, board of trustees, and powers and duties thereof. Appropriating \$15,000 for buildings and equipment for the biennium, 1907 and 1908.  
Special appropriation of \$50,000 for purposes of high school instruction and teachers' training.

Chap. 820, Mar. 8, 1907.

149. **North Carolina:** Amending sec. 4134, chap. 89, Revised, 1905, relative to county boards of education.

Providing that annual reports of officers shall be forwarded to the State superintendent within thirty days after meeting in July.

Sec. g, chap. 835, Mar. 9, 1907.

150. **North Dakota:** Amending sec. 778, Revised Codes, 1905, relative to the qualifications of county superintendents of schools.

Prescribing two years successful experience, one in the State (formerly, three years experience in the State).

Sec. 2, chap. 95, Mar. 19, 1907.

151. **North Dakota:** Amending sec. 799, Revised Codes, 1905, relative to qualifications to vote at school elections and eligibility to school offices.

Adding provisions that county superintendents must possess educational qualifications prescribed in sec. 778, Revised Codes, 1905. (Amended by sec. 2, chap. 95, Mar. 19, 1907.)

Sec. 3, chap. 95, Mar. 19, 1907.

- 152\*. **North Dakota:** Amending sec. 777, Revised Codes, 1905, relative to salary and deputy of county superintendents.

Making special provision for additional deputies in counties having a population of thirty thousand and over.

Chap. 105, Mar. 19, 1907.

153. **Ohio:** Repealing and reenacting with amendments sec. 4029-2, Revised Statutes (1905), relative to the compensation of the clerks of the boards of county school examiners.

Compensation of clerks to be the same as that fixed by sec. 4070, Revised Statutes.

H. B. 933, p. 116, Apr. 15, 1908.

154. **Ohio:** Repealing and reenacting with amendments sec. 4075, Revised Statutes (1905), relative to compensation of county school examiners.

Regrading compensation as based upon number of applicants for examination.

S. B. 415, p. 240, Apr. 30, 1908.

155. **Oregon:** Providing for district school board conventions, for representation at such convention, and for compensation of delegates.

"Sec. 1. The county school superintendent may, at his discretion, hold annually a school board convention or conventions for a term of not less than one day for the discussion of questions pertaining to the improvement of the public school system."

"Sec. 2. The chairman of the school board shall be the delegate to the convention. If he is unable to attend he shall appoint a member of his board or the clerk to represent the district. Each delegate attending the convention during the entire session shall be entitled to receive two dollars out of the general fund of the county. But no such expense shall be paid until approved by the county superintendent."

"Sec. 3. No school district shall be entitled to compensation for representation for attendance at more than one convention held in the county during any one year."

Chap. 35, Feb. 18, 1907.

156. **Oregon:** Repealing secs. 3360, 3361, 3362, 3377, and 3395, Bellinger and Cotton's Annotated Codes and Statutes, 1901, and repealing H. B. No. 126, p. 99, Laws, 1903, relative to school officers and school funds, and enacting substitute.

Sundry minor amendments relative to education providing for the distribution of the school funds within the counties, defining the powers and duties of county school superintendents and their relations with teachers and district, county, and state officers, creating district boundary boards and county boards of examiners, fixing the qualifications of teachers, etc.

Special provisions concerning disorganization of districts failing to maintain a public school for two years, or containing less than six children of school age.

Chap. 116, Feb. 23, 1907.

157. **Pennsylvania:** Repealing and reenacting with a more comprehensive title act No. 166, acts, 1903, as amended by act No. 105, acts, 1905, providing for the establishment of county associations of school directors and for the payment of certain expenses incident thereto, by the respective school districts and counties of the commonwealth.

Removing question of constitutionality by adding to the title.

Act No. 24, Mar. 22, 1907.

158. **South Carolina:** Fixing the amount of the compensation to be paid to the county officers of the various counties.

Providing for a scale of compensation for the county officers of the several counties, including county superintendents.

Act No. 270, p. 592, Feb. 18, 1907.

159. **South Carolina:** Further amending sec. 1239, Civil Code, 1902, relative to the sale of books by county superintendents.

Adding certain towns and counties to the excepted list.

Chap. 517, Feb. 26, 1908.

160. **South Carolina:** Amending sec. 1200, Civil Code, 1902, relative to county boards of education.

Increasing for the county of Dorchester the number of days for which a per diem may be allowed for the county board of education from seven to ten.

Chap. 528, Feb. 18, 1908.

161. **South Dakota:** See enactment No. 190.

162. **Tennessee:** Creating in each county a county board of education and district advisory boards, and prescribing their duties, and abolishing the office of district directors.

Providing for the division of each county into five school districts, each to be composed of whole civil districts; for the creation, powers, and duties of a county board of education, composed of one representative from each of the five districts; county superintendent to be secretary of county board. Providing for local or advisory boards of three members for each civil district and prescribing powers and duties. Exempting city schools and certain counties from operation of act.

Chap. 236, Apr. 6, 1907. (July 1, 1907.)

163. **Tennessee:** Amending secs. 2 and 3, chap. 234, Acts 1905, relative to the county board of education (applies to Lauderdale County alone—population 21,971.)

Minor amendment regarding time until which district clerk shall act as member of board. Removing provision concerning ineligibility of justices of the peace as members of county board of education.

Chap. 348, Apr. 11, 1907.



164. **Tennessee:** Amending sec. 10, chap. 25, acts, 1873, establishing and maintaining an uniform system of public schools.

Creating in counties having a population of not less than 20,250 nor more than 20,300, a county board of education. Prescribing the constitution and powers and duties thereof; the qualifications and compensation of members.

Chap. 391, Apr. 12, 1907.

165. **Tennessee:** Creating and establishing a board of education for Davidson County; providing for the election and removal of members; prescribing their powers, duties, qualifications, and compensation; establishing and maintaining a uniform system of public schools throughout said county; and abolishing the office of district school director.

County board of education of seven members to be appointed by county court for term of three years. This board to have full and complete control of the public schools of the county.

Chap. 447, Apr. 12, 1907. (June 30, 1907.)

166. **Texas:** Amending secs. 36, 37, and 40, chap. 124, acts, 1905, relative to the county supervision of schools.

Providing for the election of county superintendents in counties having a scholastic population of 2,000. Defining procedure for establishment of office in other counties. Prescribing qualifications. Provisions concerning teachers' institutes. Regulating and increasing compensation of county superintendents.

Chap. 111, Apr. 16, 1907.

167. **Utah:** Amending sec. 13, chap. 107, Laws, 1905, relative to the compensation and travelling expenses of members of boards of education in county school districts of the first class.

Fixing annual compensation at \$300 each (formerly \$300). Fixing annual allowance for travelling expenses at \$100 each (formerly \$50).

Chap. 43, Mar. 14, 1907.

168. **Utah:** Amending sec. 1785, Revised Statutes, 1898, as amended by chap. 64, Laws, 1905, relative to the duties of county superintendents.

Striking out duty of prescribing course of study for district schools (see chap. 57, enactment No. 1160).

Chap. 58, Mar. 14, 1907.

169. **Utah:** Amending secs. 1 and 4, chap. 107, Laws, 1905, relative to county school districts of the first class.

Providing where an entire county is constituted into one school district it shall be a county school district of the first class. Amending manner of election of members of the board of education.

Chap. 113, Mar. 13, 1907.

170. **Virginia:** See enactment No. 108.

171. **Virginia:** Repealing sec. 1508, Code, 1904, relative to division superintendents indorsing and depositing warrants with the treasurer.

Chap. 155, Mar. 10, 1908.

172. **Virginia:** Amending and reenacting secs. 613 and 614, Code, 1904, relative to the compensation of city and county treasurers for receiving and disbursing funds.

Chap. 244, Mar. 13, 1908.

173. **Virginia:** Amending and reenacting sec. 1437, Code, 1904, relative to division superintendents of schools.

May not engage in any other business or employment, unless excepted under provisions of sec. 1433.

Chap. 292 (in part), Mar. 14, 1908.

174. **Virginia:** Amending and reenacting sec. 1438, Code, 1904, as amended, relative to salary of division superintendents of schools.  
Striking out minimum limitation of \$200. Special provisions.  
Chap. 292 (in part), Mar. 14, 1903.
175. **Virginia:** Amending and reenacting sec. 1518, Code, 1904, relative to county treasurers' accounts of school funds.  
Chap. 300 (in part), Mar. 14, 1908.
176. **Virginia:** Amending and reenacting chap. 137, acts, 1900, requiring the several county and district school boards to make and publish annually a statement of receipts and disbursements, and providing penalty for failure.  
Modifying conditions as to publication and form of report. Report to be by districts.  
Chap. 310, Mar. 14, 1908.
177. **Virginia:** Providing the commissions that shall be allowed county treasurers upon funds handled by them that are raised by the issuance and sale of county bonds and school district bonds.  
Fixing commission at one-fourth of 1 per cent. Minimum compensation \$15, maximum \$250.  
Chap. 312, Mar. 14, 1908.
178. **Virginia:** Amending and reenacting sec. 1447, Code, 1904, relative to powers and duties of county school boards.  
Property vested in and managed by county boards to include property for district school purposes. Provisions regarding use of funds below \$2,000.  
Chap. 393, Mar. 14, 1908.
- 179\*. **Washington:** Supplementing the Code of Public Instruction (chap. 118, Laws, 1897) by adding sec. 334, relative to duties of county superintendents.  
Providing that each county superintendent shall each year hold one or more directors' meetings, the expense of which shall be paid by county commissioners. Maximum expenditure, \$100.  
Sec. 1, chap. 163, Mar. 13, 1907.
180. **West Virginia:** Amending and reenacting sec. 53, chap. 45, Code, 1906, relative to the qualifications and salary of county superintendents.  
Raising the graduated scale of annual salaries. Maximum \$1,200, striking out clause relative to county superintendents engaging in teaching.  
Chap. 58, Feb. 20, 1907.
181. **Wisconsin:** See enactment No. 1154.

(d) District, Township, and Municipal Boards and Officers.

Aside from the few enactments relative to the qualifications, tenure, and powers of superintendents of schools, Louisiana (203), (204), Missouri (223), Rhode Island (249), and Vermont (265), this group contains but little of general interest. By the creation of a "service fund," Ohio (236) made a definite and important provision for the expenses of members of boards of education actually incurred in the performance of their duties; this service fund may equal 5 cents

for each child enrolled in the public schools. Of equal importance are the somewhat similar measures, Ohio (239), providing compensation at the rate of "two dollars for each meeting actually attended for not more than ten meetings in any one year," for members of township boards of education, and West Virginia (277).

While local and particular in their application, the several special acts relative to the reorganization of the educational systems of some of the medium-sized cities are of concern to those interested in the solution of the problems of the political control of public schools as presented by our modern municipalities. The charter revisions or the special educational acts for Alameda (185), Bridgeport (189), Augusta, Me. (208), Cambridge (210), Syracuse (229), Knoxville (258), Nashville (259), San Antonio (261), Dallas (262), and Milwaukee (283), may be selected for special mention. The school-board act for Milwaukee was made necessary by the declared unconstitutional act of 1905, Wisconsin (D 287), (D 288).

The decisions of the Arkansas (D 184) and Ohio (D 241) supreme courts, as to the right of local boards of education to demand that children be vaccinated as a condition for entrance to the public schools, and the decision of the Illinois (D 195) supreme court as to the right of the board of education of the city of Chicago to make rules and regulations prohibiting high-school fraternities, call also for special mention.

182. **Arizona:** Amending subdv. 4, par. 2206 (sec. 77, chap. 8, tit. 19), Revised Statutes, 1901, relative to school district clerks.

Providing for the annual allowance of not to exceed \$100 for compensation in districts having an average attendance of 500 or more pupils.  
Sec. 18, chap. 67, Mar. 21, 1907. (July 1, 1907.)

183. **Arizona:** Amending subdv. 8, par. 2179 (sec. 50, chap. 6, tit. 19), Revised Statutes, 1901, relative to the powers and duties of boards of school trustees.

Empowering boards of trustees of districts having 1,000 census children or more to employ supervising principal. Providing, also, for the employment of supervising principals by districts jointly.  
Sec. 19, chap. 67, Mar. 1907. (July 11, 1907.)

D 184. **Arkansas (1907):** The part of the rule of a school board requiring the vaccination of pupils before admission to the schools, which provides that the pupils shall present a certificate of a reputable physician showing that they have been successfully vaccinated, is not unreasonable, and will not be set aside by the courts.—*Auten v. Board of Directors of Special School Dist. of Little Rock*, 104 S. W., 130.

185. **California:** Approving charter of the city of Alameda, voted on and ratified by the qualified electors of said city at a special election held July 18, 1906.

Reorganizing board of education. Board to consist of five members appointed by mayor subject to approval by council; term of office five years, one member retiring each year.

Prescribing powers and duties of board. Providing for superintendent of schools and defining his duties. Providing for teachers' annuity fund.

Sen. Con. Res. No. 2, chap. 7, Feb. 7, 1907 (art. 6, pp. 1080-1084).

D 186. **California** (1905): A superintendent of schools is a county officer, whose duties are prescribed by Pol. Code, sec. 1543, and additional duties can not be imposed upon him by a city charter.—*McKenzie v. Board of Education of City and County of San Francisco*, 82 P., 392.

Pol. Code, sec. 1543, *held* not to make it the duty of the county school superintendent to prefer charges against teachers.—*McKenzie v. Board of Education of City and County of San Francisco*.—*Ibid*.

The board of education of the city and county of San Francisco has jurisdiction to hear testimony against a teacher, although no formal charges have been presented against her by the county superintendent.—*McKenzie v. Board of Education of City and County of San Francisco*.—*Ibid*.

D 187. **California** (1906): The municipal corporation act confers on cities the power to employ a superintendent of schools, which power has in effect been affirmed in Pol. Code, secs. 1533, 1550, 1560, 1616, 1617, 1714, 1788, 1858, 1874, and Stat. 1903, p. 388, chap. 270, secs. 3, 5, 8.—*Davidson v. Baldwin*, 84 P., 238.

St. 1903, p. 318, chap. 11, amending the city charter of San Diego, by providing generally for the school system of the city, and for the constitution of a board of education, in which "the government" of the school district shall be vested, authorizes the school board to elect a city superintendent of schools, whose salary may be fixed as authorized by Pol. Code, sec. 1793.—*Davidson v. Baldwin*, 84 P., 238.

188. **Connecticut**: Concerning election of members of town school committees and school visitors.

Providing for the election and term of office of said school officers whenever the number shall have been changed to three.

Applying provisions of sec. 2, chap. 97, Acts, 1905.

Chap. 39, Apr. 17, 1907.

189. **Connecticut**: Revising the charter of the city of Bridgeport.

Sec. 13, p. 500, provides for the annual election at large of four members of the board of education for a term of three years.

Sec. 84, p. 527, provides that the board of education shall be composed of 12 members and prescribes the general powers and duties of such board.

Sec. 85, p. 527, provides for the furnishing of free text-books and supplies to pupils below the high-school grade.

Act No. 461, Special Acts, Aug. 1, 1907.

190. **Florida**: Amending sec. 270, art. 2 (primary election law), chap. 1, tit. 4, Statutes, 1906, in so far as it relates to the nomination of county commissioners and members of the boards of public instruction of the different counties.

Providing that such officers shall be nominated by districts instead of by the county at large.

Chap. 5697 (No. 102), June 3, 1907.

D 191. **Georgia** (1907): Where a school district was legally laid out and an election of trustees was held therein under act of Aug. 23, 1905 (acts 1905, p. 425), the fact that the portion of that act relating to local taxation by districts for school purposes was unconstitutional did not oust the trustees from office, nor did Acts, 1906, p. 61, amending the act of 1905, being a curative act, have such effect.—*Griffin v. Brooks*, 59 S. E., 902.

192. **Idaho**: Amending sec. 1, act of Feb. 4, 1881 (p. 360, Laws, 1881), creating the independent school district of Boise City, and providing for establishing and maintaining a graded school therein (sec. 158, Special and Local Laws of Idaho, Feb. 10, 1887); and providing for the organization and government of the independent school district of Boise City, and for

establishing and maintaining high and graded schools therein and a superintendent therefor; and providing for changing the boundary lines of and enlarging said district and assessing and collecting the taxes therefor.

S. B. No. 16, p. 7, Feb. 15, 1907.

183. Idaho: Amending sec. 45, H. B. No. 42, Laws, 1899, establishing and maintaining a system of free schools, and relating to powers and duties of boards of school trustees.

Requiring that teacher shall exhibit certificate to board of trustees before contract can be legally signed; requiring also that copy of contract be filed with county superintendent.

Providing for transfer of funds by county superintendents on account of tuition of nonresident pupils attending high schools.

Prohibiting trustees from compelling teachers to make up time while attending any annual county or joint institute. Provisions concerning removal of schoolhouses, purchase of school sites, furnishing of janitor service. Providing for the maintenance and care of school libraries. Prescribing duties of clerks with reference to form and matter of records.

School census to be taken first Tuesday in September instead of first Monday in July.

Minimum school age raised from five years to six years.

H. B. No. 106, p. 341, Mar. 13, 1907.

- D 194. Illinois (1907): The board of school inspectors is a branch of the city government of the city of Peoria.—People v. City Council of Peoria, 82 N. E., 225; 229 Ill., 225.

- D 195. Illinois (1908): The exercise of the power conferred on the board of education of Chicago by constitution, art. 8, sec. 1, and the legislation adopted pursuant thereto, to establish rules and regulations for the government of the schools, will not be interfered with by the courts in the absence of a clear abuse of discretion.—Wilson v. Board of Education of Chicago (Ill.), 84 N. E., 697.

- D 196. Indiana (1906): Acts, 1905, p. 257, chap. 129, sec. 54, provides that the common council of every city may supervise and investigate all departments, officers, and employees of the government of such city, and examine into any charge preferred against them, or any of them, and into the affairs of any corporation, firm, or person in which the city may be interested, etc. Held, that the officers of the board of school trustees of a school city, who were statutory trustees, entrusted with the management of the prudential affairs of their respective political districts, as provided by Burns' Ann. Stat., 1901, sec. 5917 et seq., were not "officers and employees of the government of" a civil city within such section.—Agar v. Pagin, 79 N. E., 379.

- D 197. Indiana (1906): A school corporation or the board of school trustees of a school city is not a "corporation" within acts, 1905, p. 257, chap. 129, sec. 54, authorizing the common council of every city to investigate the affairs of any "corporation" in which the city may be interested or with which it may have entered into a contract or may be about to do so.—Agar v. Pagin, 79 N. E., 379.

198. Iowa: Amending sec. 2771, Code Supplement, 1902, relative to the filling of vacancies on school boards.

County superintendent to call special election if there be no secretary of the board.

Chap. 150, Apr. 4, 1907.

199. Kansas: Ratifying the official acts and proceedings of boards of education in cities of the second class of over 10,000 inhabitants.

Chap. 243, Feb. 15, 1907.

See "Recent Decisions," at the close of this bulletin, for complete text of decision.



200. **Kansas:** Amending secs. 9 and 10, art. 7, chap. 122, Laws, 1876 (secs. 6782, 6783, Statutes, 1905), relative to union or graded-school districts.

Providing that boards of directors, of single districts establishing graded schools shall have the management of such schools. Changing time of annual meeting.

Chap. 331, Mar. 9, 1907.

- D 201. **Kentucky (1905):** The school board of a city may not insist that, on grounds of public policy, it can not be sued because it is an agent of the State; Ky. St., 1903, sec. 2949, authorizing it to be sued.—*Oberdorfer v. Louisville School Board*, 85 S. W., 696; 27 Ky. Law Rep., 508.

202. **Louisiana:** Authorizing parish boards of school directors to donate to the United States of America right of way for the purpose of constructing, operating, and maintaining canals for transportation purposes or to facilitate the public waterways.

Act No. 14, June 15, 1908.

- 203\*. **Louisiana:** Amending and reenacting sec. 8, act No. 167, acts, 1904, as amending and reenacting sec. 8, act No. 214, acts, 1902, relative to the power of parish boards of school directors.

Prescribing certificate of eligibility for parish superintendents. Giving such superintendents power to nominate teachers, and to recommend number of schools, repairs, etc. Striking out provision concerning compensation of members of board.

Act No. 49, June 20, 1908.

- 204\*. **Louisiana:** Amending and reenacting sec. 65, act No. 214, Acts, 1902, relative to school treasurers.

Parish superintendent of schools (formerly parish treasurer) to be school treasurer.

Act No. 232, July 8, 1908.

- D 205. **Louisiana (1907):** Where the governor removed the members of a parish school board from office and appointed a new board the old board, being unwilling to surrender possession of their office, could not be dispossessed by the exercise of the power of removal and the appointment of their successors, but only by an intrusion into office suit.—*Jackson v. Powell*, 44 So., 689; 119 La., 882; *In re Powell*.—*Ibid.*

Where the members of a parish school board were sought to be removed from office by the exercise of the governor's removal power and the appointment of a new board as their successors, the members of the old board were entitled to protect their possession of the office by injunction.—*Jackson v. Powell*.—*Ibid.*

206. **Maine:** See enactment No. 366.

207. **Maine:** Amending sec. 2, chap. 465, Private and Special Laws, 1868, providing for the election of a superintending school committee and superintendent of schools in the city of Lewiston.

Adding provision for the appointment of truant officers by the superintending school committee, and empowering this committee, instead of city council, to fix the term and salary of the superintendent of schools and the truant officers.

Chap. 120, Private and Special Laws, Feb. 26, 1907.

208. **Maine:** Establishing a board of education in the city of Augusta and providing for a uniform system of schools therein.

Creating a board of education, consisting of nine members, one from each of the eight wards and the president of the trustees of the Cony Female Academy *ex officio*. Providing for their election (general ward meeting), term (three years), qualifications, powers, and duties of the members for the annual town meeting for the consideration of school matters and for the discontinuance of existing school offices and districts. Providing for submission of act to city for approval. Repealing and amending sundry acts.

Chap. 416, Private and Special Laws, Mar. 26, 1907.



209. **Massachusetts:** Relative to janitors of public schoolhouses in the city of

Lawrence.

Giving to school committee full and exclusive authority to appoint, remove, and control janitors of public schoolhouses.

Chap. 187, Mar. 12, 1907.

210. **Massachusetts:** Amending sec. 4, chap. 364, acts, 1891, as amended by chap. 357, acts, 1902, and amending sec. 31, chap. 364, acts, 1891, relative to the school committee of the city of Cambridge.

Reducing membership of school committee from fifteen to five. City divided into three districts; one member from each district elected for three years; two members elected from city at large, for three years.

Modifying provisions relative to powers and duties of school committee. Annual expenditures limited to \$5 per thousand dollars of taxable property. School committee to have complete charge of school buildings and authority to appoint and remove janitors.

Act to be submitted for approval to qualified voters of city.

Chap. 566, June 28, 1907.

210a. **Massachusetts:** Amending sec. 31, chap. 364, acts, 1891, as amended by sec. 2, chap. 566, acts, 1907, relative to the school committee of the city of Cambridge.

Extending power of expenditure.

Chap. 362, Apr. 7, 1908.

211. **Michigan:** See enactment No. 296.212. **Michigan:** See enactment No. 297.213. **Michigan:** Amending sec. 2, chap. 3, act No. 164, acts, 1881 (sec. 4667, Compiled Laws, 1897), relative to vacancies in school district offices.

Adding provision that an office shall be vacant when incumbent ceases to be a taxpayer in said district; or upon the expiration of twenty days after failure of district to elect successor at annual meeting, at which time board of school inspectors shall appoint successor.

Sec. 1, p. 101, act no. 91, May 15, 1907.

214. **Michigan:** Amending secs. 1, 2, 3, 5, chap. 10, act No. 164, acts, 1881 (secs. 4746, 4747, 4748, 4750, Compiled Laws, 1897), relative to the organization of graded school districts.

Authorizing transfer of organization to graded school district upon majority vote (formerly two-thirds). Providing for board of education in place of board of trustees. Defining eligibility. Providing for treasurer's bond. Providing for financial management; for employment of superintendent of schools whose powers and duties are prescribed.

Act No. 247, June 27, 1907.

D 215. **Michigan (1905):** Under Detroit city charter, Comp., 1904, sec. 506, providing the school inspectors shall be a body corporate known as "Board of Education of the City of Detroit," and in that name may sue and be sued, and hold and convey real and personal property, such board is a municipal corporation, and not liable for the negligence of its employees and agents.—*Whitehead v. Board of Education of City of Detroit*, 112 N. W., 1028; 11 Detroit Leg. N., 923.D 216. **Michigan (1908):** Comp. Laws, sec. 4810, prescribes certain qualifications as requisite to eligibility to the office of commissioner of schools, but provides that persons who have held the office under the provisions of act No. 147, p. 183, pub. acts, 1891, of which the section is amendatory, shall be eligible. Sec. 3 (p. 184) of the original act provides that no person shall be eligible to the office unless he possesses certain specified qualifications, or has held the office under the act. *Held*, that the original act indicates an intention to provide that, once elected, a person is to be always eligible to the office, and the same intent is shown by the amendment, and hence a former holding of the office, whether before or after the amendment, is a sufficient qualification.—*Attorney-General v. Lewis*, 114 N. W., 927; 14 Detroit Leg. N., 840.

217. **Minnesota:** Amending secs. 5 and 6, chap. 289, Laws, 1903, relative to the reorganization of school districts in cities having a population of 10,000 inhabitants or less, in which the city council or common council performs the duties of a board of education.

Providing that school inspectors shall be elected at the same time and in the same manner as city officers.

Authorizing board of inspectors to employ and compensate clerks, physicians, attorneys, truancy officers, etc.

Chap. 50, Mar. 16, 1907.

218. **Minnesota:** Amending sec. 1328, Revised Laws, 1905, relative to school district treasurers' bonds.

Requiring that treasurer's bond be in a sum equal to twice the amount that will probably come into his hands *during any one year*; excepting bonds furnished by surety companies, which shall be equal to the probable amount of money.

Chap. 95, Apr. 4, 1907.

219. **Minnesota:** Providing for an inspector of the books, papers, accounts, bills, vouchers, and other documents or property of townships, villages, cities, and school districts in counties having at any time a population of more than 100,000 and an area of more than 5,000 square miles.

Prescribing method of appointment, qualifications, compensation, powers, and duties of such "public examiner."

Chap. 131, Apr. 9, 1907.

220. **Minnesota:** Providing for the examination of the books of accounts and all records of township, village, and school district officers throughout the State.

Prescribing annual examination by public examiner. Providing for reports and compensation of examiner.

Chap. 344, Apr. 23, 1907.

221. **Minnesota:** Amending sec. 1330, Revised Laws, 1905, relative to chairman of school board.

Authorizing chairman to draw orders in the absence, inability, or refusal of the clerk. Office of clerk may be declared vacant.

Sec. 3, chap. 445, Apr. 25, 1907.

- D 222. **Minnesota (1905):** Laws, 1906, p. 459, chap. 289, providing that in cities containing 10,000 inhabitants or less, where the city council acts as a board of education, it may be relieved from its duties and a board of school inspectors elected, is not unconstitutional, as special legislation in violation of Constitution, art. 4, secs. 33, 34, in that the classification as adopted is arbitrary and founded on no substantial distinction, and is an attempt to regulate the internal affairs of a single school district.—*State v. Henderson*, 100 N. W. 348, 97 Minn., 389.

223. **Missouri:** See enactment No. 843. (Extending tenure of office of city superintendents and principals.)

224. **Nevada:** Amending sec. 24, act of March 20, 1865 (chap. 145, Statutes, 1865—as amended; sec. 1293, Compiled Laws, 1900), relative to board of school district trustees.\*

Modifying organization by providing for the election of a president. Increasing compensation of clerk.

Chap. 160, Mar. 29, 1907.

225. **New Hampshire:** Relating to the time of the election of the superintendent of schools in the city of Portsmouth. (Amending chap. 205, Laws 1885.)

Election to be held in May instead of in July.

Chap. 176, Feb. 5, 1907.

226. New Jersey: Amending secs. 85 and 91, chap. 1, Acts, 1903 (sp. sess., Oct. 15), relative to boards of education.

Providing that boards of education shall organize on the first Monday in April instead of within ten days of the annual meeting; for the appointment and compensation of district clerks, requiring district clerk to give a bond; and prescribing additional duties.

Chap. 119, May 7, 1907.

227. New Jersey: Amending sec. 73, chap. 1, Acts, 1903 (sp. sess., Oct. 15), relative to boards of school estimate.

Adding provision regarding the filling of vacancies.

Chap. 276, Oct. 28, 1907.

- D 228. New Jersey (1906): The provisions of P. L., 1904, sp. sess., p. 21, sec. 53, requiring a municipal board of education to award contracts for school supplies to the lowest responsible bidder, limits the power of the board, which must make the award to such bidder.—*Jacobson v. Board of Education of City of Elizabeth*, 64 A., 600.

229. New York: Amending secs. 174-183, chap. 26, Laws, 1885, as amended by sec. 16, chap. 368, Laws, 1887, as amended by chap. 18, Laws, 1889, as amended by sec. 5, chap. 626, Laws, 1892, as amended by chaps. 524 and 531, Laws, 1893, as amended by secs. 23-27, chap. 950, Laws, 1895, as amended by chap. 752, Laws, 1897, and as amended by chap. 48, Laws, 1898, providing for a department of public instruction in the city of Syracuse.

"Sec. 1. A department of public instruction is and for the city of Syracuse is hereby established. There shall be a board of education, composed of seven members, to be called commissioners of education, who shall be elected by the electors of the city at large. Said board shall be the head of the department of public instruction, and the representative of the school system of the city in its entirety. The terms of office of said commissioners shall be four years, to commence January first following their election. The first commissioners of education shall be those holding office at the time this act takes effect, and who shall continue to hold their offices until the expiration of the terms for which they were severally elected. Their successors shall be elected at the biennial city election next preceding the expiration of their respective terms of office, in the same manner as other city officers. Said commissioners shall serve without compensation.

"Sec. 2. The board shall appoint one of its members president, who shall exercise all of the powers usually incident to such office. It shall appoint, to hold office for a term of four years, unless sooner removed, a clerk who shall perform the duties hereinafter specified and shall receive such compensation for his services as shall be determined by the board of estimate and apportionment. It shall also appoint to hold office for a term of four years, unless sooner removed, a suitable person, to be superintendent of schools, who shall exercise the powers and discharge the duties hereinafter defined, and shall receive such compensation for his services as the board of estimate and apportionment may determine. It may also appoint a superintendent of repairs, and such other subordinates, including principals, teachers, attendance or truant officers, and janitors or custodians of schools as the public school system of the city may require, and, subject to the approval of the board of estimate and apportionment, shall fix and determine the salaries or compensation of all such officers, and subordinates within the appropriation made therefor. The present officers, appointees and employees of the board of education shall continue to hold their respective offices during the terms for which they have been respectively appointed. All appropriations of public moneys made for the payment of salaries and compensation of officers and subordinates of the department of public instruction shall be paid monthly, after certification by the president of the board of education, by the city treasurer upon the warrant of the city comptroller, in the same manner as the salaries of the other city

officers. The commissioners and subordinates shall be deemed to be city officers of the city, and shall be subject to all the provisions of law applicable to such city officers.

"SEC. 3. The superintendent of schools and the clerk shall each, before entering upon the discharge of the duties of his office, execute and file with the city clerk an official undertaking conditioned upon the faithful discharge of the duties of his office, in such sum as shall be prescribed by the common council; such undertakings to be approved as to form and validity by the corporation counsel, and as to the sufficiency of the sureties by the mayor.

"SEC. 4. The board of education shall have the sole and exclusive government, management, care and control of the public school system of the city, subject only to the general statutes of the State relative to public schools and public school instruction not inconsistent with the provisions of this act. It shall have the sole and exclusive care, custody, control, management and safe keeping of all property owned or used for school purposes. It shall have full power and authority to approve all plans for new school buildings; to make rules and regulations for the government of the schools; prescribe courses of study and text-books; provide the schools with necessary apparatus, equipment, furniture and supplies; supply the requisite text-books and stationery for the use of the pupils, when required by law; exchange old text-books for new; change the grades of schools and classes therein; discontinue or consolidate schools and classes therein, and establish new schools; license and fix standards of qualification as necessary requirements for service of all principals and teachers in the schools, which requirements may be higher, but not lower, than the minimum qualifications required by the general laws of the state; assign and transfer principals, teachers and pupils to schools and from one school to another, and provide for the graduation of all pupils from all grades of schools; allow teachers extra pay for extra work, and employ and fix the compensation of such extra teachers as may be required, within the appropriation made for teachers' wages; prescribe rules and regulations for the admission of nonresident pupils to the schools of the city and fix the tuition to be paid therefor; and shall have all the powers and discharge all the duties conferred or imposed by law upon commissioners of common schools and trustees of the several school districts of the State, so far as the same are applicable to the schools of the city and are not inconsistent with the provisions of this act. In the execution of the powers and authority vested in it the board may establish such rules and regulations as it may deem necessary for the promotion of the welfare and best interests of the public schools and the public school system of the city. The board shall administer all moneys appropriated or available for educational purposes, provided that all purchases or expenditures made, or expenses or indebtedness incurred by said board, or in said department, shall be made, audited and paid in the same manner and subject to the same conditions and limitations as are provided by law for expenditures made by other city departments. The enumeration of specific powers herein shall not be deemed to exclude or limit the exercise of powers not so enumerated.

"SEC. 5. It shall be the duty of the superintendent of schools, under the general supervision and direction of the board of education, to visit the several schools of the city at frequent intervals; to inquire into the character of the instruction, management and discipline; to advise and encourage the pupils and teachers; to enforce the rules and regulations of the board of education; to maintain and enforce proper discipline in the management and conduct of the schools, and in connection therewith may suspend any pupil alleged to be guilty of misconduct or insubordination, and may likewise suspend any teacher, principal or employee, but shall immediately report such discipline with his reasons therefor to the board of education; to report to the board of education any inefficiency or misconduct on the part of principals, teachers and employees; to supervise the enforcement of the compulsory education law and direct truant officers in the discharge of their duties; to have charge of the school libraries; and to perform such other duties as shall be prescribed by or delegated to him by the board of education.



"SEC. 6. The clerk shall keep all records of the board and shall have charge, custody and control of the rooms, books, papers, documents and records of the department and shall perform such other duties as shall be required by the board of education. He is hereby authorized to administer oaths and take affidavits in all matters appertaining to the schools or school system of the city and for that purpose shall possess all the powers of a commissioner of deeds but shall not be entitled to any of the fees or emoluments thereof.

"SEC. 7. The superintendent of repairs shall, under the direction of the board, have charge of keeping in repair the school buildings, school furniture and equipment, heating and other apparatus and appliances for carrying on school work; and for such purposes may, subject to the approval of the board, and within the appropriation made therefor, employ such assistants as may be necessary.

"SEC. 8. The salaries of all principals and teachers shall be regulated so far as practicable, according to merit, grade of class taught, length of service in teaching or by a combination of these considerations, in accordance with a uniform of schedule.

"SEC. 9. The board of education shall be the sole trustee of the several school libraries in said city. It shall provide for the safe-keeping of the same and all the provisions of law relative to district school libraries shall be applicable thereto. It shall be vested with the same discretion as to the disposition of all moneys appropriated by any laws of the state for the purchase of school libraries as is conferred by law upon the inhabitants of school districts.

"SEC. 10. All appointments to positions of teachers in the public schools of the city, except principals and vice principals of schools, heads of departments of high schools, and special teachers of drawing, music, physical culture, writing, sloyd, stenography and domestic science, shall be made from a merit list to be ascertained and established in accordance with such rules and regulations as the board of education shall prescribe. The applicants on said list shall be graded and classified according to a combination of qualifications which shall include scholarship, ability to teach, experience and ability in school and class room discipline and management, and general merit and fitness. No person shall be appointed to the position of principal of a high school or of a grammar school, or teacher in a high school who is not a graduate of a normal school, college or university recognized by the regents of the university of the State of New York, and has not had at least two years' successful experience in teaching, and no person shall be appointed as teacher in a grammar school or kindergarten who is not a graduate of a normal school or who has not pursued a course in pedagogy in a state training school for at least one year. The provisions of this section as to qualifications or eligibility shall not apply to any principal or teacher now in the employ of the city.

"SEC. 11. Text-books shall be furnished free of expense to all the pupils of the common schools of said city of all grades below that of high school. Such books shall be and remain the property of the city and the board of education shall provide for the care and preservation of the same. No text-book of which any officer or subordinate of the department is the author, or in the publication or sale of which any such officer or subordinate is in any way interested, shall be adopted for use in any of the schools of the city unless the same shall have been adopted and shall be in use in the public schools of at least five other cities of the state.

"SEC. 12. Whenever the city clerk shall receive notice from the state commissioner of education of the amount of moneys apportioned to said city for the support and encouragement of common schools therein he shall immediately lay the same before the city comptroller and treasurer and the treasurer shall apply for and receive the moneys apportioned to the said city as soon as the same become payable and place the same in the city treasury and the same shall be applicable for the reduction of general taxation.

"SEC. 13. The commissioner of public works shall have the power, when authorized so to do by the board of estimate and apportionment

\* So in the original.

for, on behalf of and in the name of the city of Syracuse to acquire by purchase or condemnation or to lease such real property as may be required for school purposes; to superintend the planning and construction of new school buildings; and to dispose of such real property owned and used for school purposes as shall no longer be required therefor. No school building or addition to a school building shall hereafter be erected until the plans, specifications and detailed drawings for the same shall have been approved by the superintendent of public works and board of education and their respective approvals endorsed thereon. Such plans and specifications shall show in detail the ventilation, heating, lighting, plumbing and sanitary arrangements of such buildings. No plan or specifications for the erection of any school building or addition to a school building shall be approved unless the same shall provide at least fifteen square feet of floor space and two hundred cubic feet of air space for each pupil to be accommodated in each study or recitation room therein, nor unless provision be made therein for assuring at least thirty feet of pure air every minute per pupil and the facilities for exhausting foul or vitiated air therefrom shall be positive and independent of atmospheric changes. All such school buildings shall have at least two separate and distinct stairways located as far remote from each other as practicable. All stairs, stairways and stair halls shall be constructed of absolutely fireproof material. All stairways and stair halls shall be enclosed on all sides with walls of solid masonry, self supported and carried from the foundations. All doorways opening therein shall be protected by fire doors and all window openings, except from the outside, shall have fireproof or wired glass set in metallic frames. All halls, doors, stairways, seats, passageways and aisles, and all lighting and heating appliances and apparatus shall be so arranged as to facilitate egress in case of fire or accident, and to afford the requisite and proper accommodations for public protection in such cases. Existing school buildings shall, as far as practicable, be improved so as to comply with the foregoing requirements.

"Sec. 14. This act is intended to be and shall be deemed and held in all courts and jurisdictions to be a public act, of which the courts shall take judicial notice. This act shall be construed not as an act in derogation of the powers of the State, but as one intended to aid the State in the execution of its duties, and shall be liberally construed so as to carry into effect the objects and purposes hereof."

Sec. 15. Saving clause.

Sec. 16. Construction of provisions.

Sec. 17. Laws repealed.

Consolidates previous sundry provisions and modernizes powers and duties of boards of education in accordance with the needs of the city school system.

Chap. 543, June 21, 1907.

230. New York: Reenacting with amendments the charter of the city of Rochester (secs. 381-382, art. 11. Education).

Chap. 755, July 25, 1907.

231. New York: Amending the charter of the city of Buffalo relative to the board of examiners in the department of public instruction in such city.

Chap. 336, May, 1908.

232. New York: Providing for a department of public instruction in the city of Schenectady.

Chap. 484, May, 1908.

- D 233. New York (1905): Plaintiff's principal made an official report to the city school superintendent that plaintiff was "careless" in blackboard work, and thereafter such superintendent, in replying to the letter written to him by W. at plaintiff's request and in her interest, calling attention to alleged conflict between such report and one made shortly before by the same principal, stated that he never had any doubt that the principal's estimate of plaintiff was "pretty nearly correct." Held, that such reports were not libelous per se. *Walker v. Best*, 95 N. Y. S., 151, 107 App. Div., 804.



234. North Carolina: Amending sec. 4020, chap. 85, Revisal, 1905, relative to application of chapter on education.  
Requiring the superintendents and the treasurers of all district schools receiving any part of the public school fund to make reports to the state superintendent and county superintendent.  
Sec. 1a, chap. 835, Mar. 9, 1907.
235. North Dakota: Amending sec. 819, Revised Codes, 1905, relative to the powers of district school boards.  
Providing that no relative of any member of a board shall be employed without unanimous consent of the board.  
Sec. 4, chap. 95, Mar. 19, 1907.
- 236\*. Ohio: Providing for the expenses of members of boards of education in school districts of the State.  
"Sec. 1. That a service fund for members of the board of education of any city school district be authorized and that it be operated as follows:  
"Upon the passage of this act and upon the third Monday of every January thereafter the clerk of the board of education shall certify to the board of education of which he is clerk, the number of pupils enrolled in the public schools of that district, whereupon the board of said city school district may by resolution set aside from the contingent fund a sum not to exceed five cents for each child so enrolled, said sum of money to be known as the 'service fund' to be used only in paying the expenses of said members actually incurred in the performance of their duties; such payments to be made only on statement of the several members furnished at the last meeting held in each month."  
S. B. 305, p. 322, May 9, 1908.
237. Ohio: Repealing and reenacting with minor amendments sec. 3807, Revised Statutes (1905), as amended April 25, 1904 (S. B. 57, p. 338, Laws, 1904), relative to boards of education in city school districts.  
S. B. 455, p. 585, May 20, 1908.
238. Ohio: Amending sec. 1, H. B. 44, p. 120, Laws, 1900, providing for the release and discharge of county, city, village, and school district treasurers and their sureties in certain cases.  
S. B. 546, p. 388, May 9, 1908.
- 239\*. Ohio: Repealing, and reenacting with amendments, sec. 3920, Revised Statutes (1905), as amended April 25, 1904 (S. B. 57, p. 342, Laws, 1904), relative to the organization of township boards of education.  
Providing for compensation of members of boards—"two dollars, for each meeting actually attended, for not more than ten meetings in any year."  
H. B. 678, p. 105, Apr. 15, 1908.
240. Ohio: Repealing, and reenacting with amendments, sec. 3909, Revised Statutes (1905), relative to the action of the county commissioners when a board of education fails to provide proper school facilities.  
Proper school facilities to include the continuance of school for thirty-two weeks (formerly seven months). Adding the payment of teachers' salaries, the payment of money needed in school administration, and the filling of vacancies in board within thirty days, to list of the duties of boards of education.  
H. B. 1008 (in part), p. 51, Mar. 31, 1908.
241. Ohio: Repealing, and reenacting with amendments, sec. 3981, Revised Statutes (1905), relative to vacancies in boards of education.  
Constituting absence from meetings of board for ninety days cause for declaring vacancy.  
H. B. 1008 (in part), p. 51, Mar. 31, 1908.

242. **Ohio:** Repealing, and reenacting with amendments, sec. 2834b, Revised Statutes (1905), relative to restrictions as to contracts, agreements, obligations, appropriations, and expenditures.

Striking out provisions excepting boards of education in cities of the first class, of first, second, or third grade, from operation of section.

H. B. 1279, p. 520, May 9, 1908.

- D 243. **Ohio (1904):** Rev. Stat., sec. 4105, providing that the administration of all estates or funds given or transferred in trust to any municipality for the promotion of education and accepted by the council, and any institution for the promotion of education heretofore or hereafter so founded, other than a university as defined by such act, shall be committed to the board of education of the school district including such municipality, did not authorize the transfer from the trustees appointed by the mayor of Toledo of the control of the property of the Toledo University to the board of education.—State v. City of Toledo, 26 Ohio Cir. Ct., R. 623.

- D 244. **Ohio (1907):** Rev. Stat., sec. 3080, empowering the board of education of any school district to make and enforce such rules and regulations to secure the vaccination of, and to prevent the spread of smallpox among, the pupils attending, or eligible to attend, the schools of the district, as in its opinion the safety and interests of the public require, is not repugnant to the constitution of this State, nor violative of the Fourteenth amendment of the Constitution of the United States, and under the power thereby conferred a board of education may exclude from the public schools children who have not been vaccinated.—(1907) State v. Board of Education of Village of Barberton, 81 N. E. 568; 76 Ohio Stat. 297, affirming judgment (1905) 29 Ohio Cir. Ct. R., 375.

245. **Oklahoma:** Providing for boards of education in cities of the first class holding over until the next regular election, and defining their powers and duties.

Chap. 12, S. B. 141, p. 187, Apr. 11, 1908.

246. **Pennsylvania:** Prohibiting the board of directors or controllers of any school district from taking by condemnation or otherwise for public school purposes, without the owner's consent, any land owned and used by any church, religious society, college, or educational institution.

Act No. 99, Apr. 25, 1907.

247. **Pennsylvania:** Repealing No. 17, Laws, 1850, relative to the establishment, maintenance, management, and nature of the public schools of the city of Lancaster.

Act. No. 158, May 14, 1907.

248. **Pennsylvania:** Amending sec. 50, No. 610, acts, 1854, regulating and continuing the system of education by common schools.

Excluding the exception whereby the common schools of the city of Lancaster are exempted from said act.

Act No. 245, May 31, 1907.

- 249\*. **Rhode Island:** Amending, by adding to chap. 1101, Public Laws, relative to the better management of the public schools of the State.

Superintendents of schools to hold certificates of qualification issued by state board of education.

Chap. 1500, May 1, 1908.

- D 250. **Rhode Island (1906):** Under Pub. Laws, 1902, p. 67, chap. 980, sec. 1, providing that the school committee of each town shall elect a superintendent of schools thereof at the first regular meeting of the committee succeeding the annual election thereof, and Gen. Laws, 1890, chap. 26, sec. 8, declaring that the word "town" shall include a city, the school committee of a city consisting of three members, one elected at the November election of each year for a term beginning in January fol-

lawing, can not elect a superintendent to serve under the committee as it will be constituted after the election in November, though the committee from the time of the adoption of the charter, requiring an annual election of a superintendent, had elected a superintendent at any time during the year at its discretion.—In re School Committee of Pawtucket, 65 A. 301, 27 R. I. 590.

251. **South Carolina:** Providing for annual reports by the city board of school commissioners of Charleston.

Requiring annual report to be submitted to general assembly and to mayor of city.

Act No. 605, Feb. 24, 1908.

252. **South Dakota:** See enactment No. 100.

253. **South Dakota:** Providing for the incorporation of cities under commission.

Creating a class of cities entitled "Cities under commission," to be governed according to the so-called "commission" plan. Secs. 116, 117, and 125-134 provide for the educational organization of such cities as independent school districts, to be governed by general laws applicable to such districts except as otherwise provided.

Providing for the election of a board of education of five members, one of whom to be elected annually for a term of five years. Prescribing powers and duties of the board of education, particularly with reference to its finance.

Chap. 86, Mar. 12, 1907.

254. **South Dakota:** Relating to public schools in cities, towns, and adjacent territory, organized as independent school districts.

Providing for adoption of article by voters, for the constitution, election, organization, powers, and duties of boards of education.

Art. XI, chap. 135, Mar. 13, 1907.

255. **South Dakota:** Relating to the organization and government of independent school districts.

Art. XVII, chap. 135, Mar. 13, 1907.

256. **Tennessee:** Amending chap. 17, acts, 1883, as amended by chap. 59, acts, 1891, providing for the more efficient management of the public schools and taxing districts where there is an incorporated system of public schools.

Increasing the maximum annual compensation of school commissioners from \$200 to \$480; of the president of the board from \$500 to \$600. Providing for a maximum annual compensation of \$600 for the chairman of the committee on buildings and grounds.

Providing that the tax levied for school purposes shall be a special tax, not to be embraced within any limitation of the taxing power.

Increasing maximum annual salary of superintendent of schools from \$2,500 to \$3,600.

Chap. 87, Feb. 15, 1907.

257. **Tennessee:** Repealing chap. 8, acts, 1885 (sp. sess.), relative to the incorporation of the city of Knoxville, and all acts amendatory to said act and all laws relative to the charter of the city of Knoxville.

Chap. 206, Apr. 1, 1907.

258. **Tennessee:** Incorporating the city of Knoxville and defining the rights, powers, and liabilities of the same.

Fixing maximum tax levy for municipal purposes, including schools, at 1½ per cent (sec. 21). Authorizing special school tax of 10 cents on each \$100 of assessed valuation, under conditions imposed by chap. 254, Acts, 1899 (sec. 25).

Providing for a board of education of five members, to be elected, each for five years, by the board of mayor and aldermen. Continuing members of existing board (secs. 60-63).

Chap. 207, Apr. 1, 1907.

259. **Tennessee:** Amending sec. 12, chap. 204, acts, 1890, relative to boards of education in cities having a population of thirty-six thousand and upward according to the Federal census of 1880.  
Five instead of seven members of board to constitute a quorum. Prescribing certain powers and duties of boards of education, and defining the relationship of any such board to the city council with reference to the control of the public schools. Applies to city of Nashville.  
Chap. 400, Apr. 12, 1907.
- 1) 260. **Tennessee** (1907): Act of March 27, 1907, acts, 1907, p. 564, chap. 184, art. 1, sec. 3, empowering the city of Memphis to establish and maintain public schools, is not as to that provision unconstitutional.—Malone v. Williams, 103 S. W., 798, 118 Tenn., 390.
261. **Texas:** Amending in sundry particulars chap. 128, Laws, 1903, providing for the incorporation of the San Antonio board of trustees, as amended by chap. 96, Laws, 1905.  
Special Laws, chap. 29, Mar. 19, 1907.
262. **Texas:** Granting a new charter to the city of Dallas.  
Providing for taxation for school purposes, art. 2, sec. 2, par. 2, p. 574. Providing for the organization of the board of education and defining its powers and duties, art. 5 (pp. 608-610).  
Special Laws, chap. 71, Apr. 13, 1907.
263. **Texas:** Amending sec. 93, chap. 124, Acts, 1905, relating to duties and qualifications of school trustees.  
Striking out provisions concerning white and colored trustees. Prescribing qualifications for trustees, and providing for procedure for removal from office.  
Chap. 106, Apr. 16, 1907.
264. **Utah:** Amending sec. 1890, Revised Statutes, 1898, relative to the board of education in cities of the first and second class.  
Providing for the filling of vacancies by the mayor and council when board of education fails to do so within thirty days.  
Chap. 134, Mar. 23, 1907.
265. **Vermont:** Repealing, and reenacting with numerous amendments, secs. 622, 623, 624, 625, Public Statutes, 1894, relative to supervision of schools of two or more towns.  
Defining in greater detail the conditions and methods for the union of towns for the purpose of employing a superintendent of schools. Proportion of state aid increased. Qualifications, powers, and duties of superintendent defined. Special provision for Grand Isle County.  
Act No. 45, Nov. 7, 1906. (Apr. 1, 1907.)
266. **Vermont:** Providing for the punishment of public officers for neglect of duty.  
Penalty of a fine of not more than \$1,000, imprisonment for not more than a year, or both. Includes school district officers.  
Act No. 190, Dec. 14, 1906.
267. **Vermont:** Amending charter of city of Burlington as approved by act No. 98, Acts, 1864, amended, reenacted, and approved by act No. 255, acts, 1872, and act No. 148, acts, 1896.  
Changing term of school commissioners from two to three years, and providing for the election by wards of two each year; increasing number of elected members from five to six. Superintendent of schools no longer to be ex officio member and president of board. Providing for appointment of truant officer.  
Secs. 155-171, act No. 281, Dec. 15, 1906. (Jan. 1, 1907.)

208. **Vermont:** Amending act No. 110, acts, 1892, as amended by sundry successive acts relative to the charter of the city of Rutland.

Secs. 211-228 relate to schools. School commissioners hereafter to be elected at large instead of by wards. Provision for appointment of truant officers.

Secs. 211-228, act No. 280, Dec. 19, 1906. (Feb. 6, 1907.)

209. **Virginia:** Amending and reenacting sec. 1459, Code, 1904, relative to eligibility to office of district school trustees.

Making deputies of federal, state, and county officers ineligible. Adding certain minor officers to the list of exceptions.

Chap. 147, Mar. 5, 1908.

270. **Virginia:** Amending and reenacting sec. 1520, Code, 1904, relative to the jurisdiction and powers of school boards in cities and to the clerks of said boards.

Extending provisions of section to towns constituting separate school districts. Salary of clerk to be fixed by board.

Chap. 153, Mar. 10, 1908.

271. **Virginia:** Amending and reenacting sec. 1485, Code, 1904, relative to penalties for failure of county treasurer or district school clerks to make annual reports to county board.

Increasing fine from \$5 to \$25. No remission of fines imposed unless such is approved by the state board of education.

Chap. 309 (in part), Mar. 14, 1908.

272. **Virginia:** Amending and reenacting act of May 21, 1887 (sec. 1460a, Code, 1904), relative to the sale or exchange of public-school property by county or city school boards.

Extending provisions of act to district school boards.

Chap. 350, Mar. 14, 1908.

273. **Virginia:** Repealing secs. 1468 and 1500, Code, 1904, relative to the corporate powers and designation of school districts.

Duplicate of sec. 1482, Code.

Chap. 306, Mar. 16, 1908.

274. **Washington:** Amending secs. 75, 78, 89, 97, and 98, chap. 118 (Code of Public Instruction), Laws, 1897, relating to schools in cities of 10,000 inhabitants and over.

Vesting board of directors of districts regularly employing 40 or more teachers with same powers and duties as boards of such cities. Provisions concerning elections and registration of voters. Fixing graduated limit of expenditures by boards of directors for sites and buildings. Boards by unanimous vote may fix tax not exceeding 2 per cent for all school purposes.

Chap. 31, Feb. 21, 1907.

275. **Washington:** Amending sec. 165 (Code of Public Instruction), relative to failure of school officers to deliver property.

Providing for the disposition of fines inflicted.

Sec. 16, chap. 240, Mar. 18, 1907.

276. **West Virginia:** Amending and reenacting and reducing to one the several acts creating the Parkersburg independent school district.

Providing for board of education; election, qualifications, salary, officers, powers and duties, tax levies; superintendents and teachers.

Chap. 6, Mar. 6, 1907. (Sp. sess.)



277. **West Virginia:** Amending and reenacting sec. 6, chap. 45, Code, 1906, relative to the salaries of teachers and the compensation of the members of the boards of education.

Raising minimum monthly salary limit for the holders of different grades of certificates; grade one, from \$35 to \$40; grade two, from \$30 to \$35; grade three, from \$25 to \$30.

Increasing compensation of members of boards of education from \$1.50 to \$2.50 for not to exceed ten days for any one year in case of commissioners, and fifteen days in case of the president.

(Not approved by the governor.)

Chap. 26, Feb. 18, 1908.

278. **Wisconsin:** Amending subdv. 18, sec. 430, Statutes, 1898, relative to salaries of school-district treasurers.

Authorizing compensation to treasurer and director in addition to clerk.

Chap. 71, May 3, 1907.

279. **Wisconsin:** Amending in a minor manner sec. 463, Statutes, 1898, relative to the annual report of town clerks to the county superintendent.

Chap. 185, June 6, 1907.

280. **Wisconsin:** Amending sec. 1, chap. 421, Laws, 1905, by adding thereto subdv. 1m, relative to school-district boards. (Sec. 493b, Statutes, 1898.)

Prescribing procedure for increase in number of members of a school board to seven.

Chap. 198, June 12, 1907.

281. **Wisconsin:** Adding subdv. 1n to and amending sec. 467, Statutes, 1898, relating to duties of town clerks.

Chap. 322, June 21, 1907.

282. **Wisconsin:** Amending sec. 462a, Statutes, 1898, relative to duties of school-district clerks with respect to annual school-district reports.

Chap. 441, June 27, 1907.

283. **Wisconsin:** Relating to school boards and common and high schools in cities of the first class. (Milwaukee.)

Chap. 459, June 29, 1907.

284. **Wisconsin:** Repealing and reenacting sec. 925-113, Statutes, 1898, relative to the election or appointment of boards of education in cities under general charter law.

Providing conditions for reorganization of school system of reincorporated cities; special elections.

Chap. 480, July 9, 1907.

285. **Wisconsin:** Adding sec. 430n to Statutes, 1898, relative to the powers of the electors of school districts.

Authorizing school district with a board of seven members to vote to return to the district system of school government with board of three members. Procedure.

Chap. 588 (in part), July 12, 1907.

19286. **Wisconsin (1907):** Where a city of the third class, operating under a special charter containing no provisions relating to schools governed by the general statutes relating to public schools, adopts St. 1898, chap. 40n, secs. 925-113 to 925-119, providing for the appointment of boards of education for the management of the schools in cities, the city may maintain mandamus against the school board of a district existing under the general statute to compel it to turn over to the board of education of the city the records and property in its possession as such board.—*State v. Green*, 111 N. W., 519, 131 Wis., 324.



- D 287. **Wisconsin (1907)**: Laws, 1905, p. 403, chap. 273, sec. 1, provides that the public schools in every city of the first class shall be under the general management and supervision of a board of school directors consisting of twelve members from the city at large, selected as provided in the act. Sec. 3 provides that before a date named the circuit judges of the judicial circuit in which such a city is situated shall meet and appoint twelve members of the board of school directors, to hold their respective offices for the periods therein prescribed. Constitution, art. 13, sec. 9, declares that all city, town, and village officers whose election or appointment is not provided for by the constitution shall be elected by the electors of such cities, towns, and villages, or appointed by such authorities thereof as the legislature shall designate for that purpose. *Held*, that the act was unconstitutional as being in contravention of constitution, art. 13, sec. 9, in that it not only undertook to take from the electors of the city the right to elect members of their school board, but also took from the authorities of the city the right to appoint the members of such board.—*State v. Lindemann*, 111 N. W., 214.
- D 288. **Wisconsin (1907)**: Laws, 1905, p. 403, chap. 273, relating to school boards and common and high schools in cities of the first class, and providing that the public schools in every city of the first class shall be under the general management and control of a board of school directors, consisting of twelve members from the city at large, selected as provided in the act, is not unconstitutional, as being special legislation.—*State v. Lindemann*, 111 N. W., 214.
289. **Wyoming**: Amending and reenacting secs. 530, 563, and 1192, Revised Statutes, 1899, relating to school districts and levy of school taxes. Fixing April 13th as end of fiscal year. Changing time for submission of reports of district clerks and county superintendents. Chap. 15, Feb. 13, 1907.

(e) School Meetings, Elections; Qualifications for Voters.

The enactments classified under this section relate principally to minor and local administrative changes concerning the time and manner of publication of notices of general and special school elections, the conduct of such elections, and the general powers and authority of district school meetings. The definition of the qualifications of women voting at school elections in Vermont (311), the Oregon (D 308) decision as to the right of property owners to vote in school districts, and the Wisconsin (D 313) decision as to the right of women to vote on the proposition to issue bonds for the construction of school buildings, touch matters of more than local significance.

290. **Alabama**: Amending sec. 6, act No. 365, p. 230, Laws, 1903, providing for the redistricting and management of the public schools. Providing for publication of notices of meetings for election of district trustees, for procedure, for certificate of election, and for contests. Sec. 1, act No. 358, p. 478, July 17, 1907. (Sec. 1697, Code, 1907.)
291. **Connecticut**: Amending in a minor manner secs. 1795 and 2190, General Statutes, 1902, relative to the notices of town, city, borough, school society, school district, and other meetings. Chap. 128, June 21, 1907. (July 1, 1907.)
292. **Delaware**: Fixing the time for holding school meetings in Kent County. Meeting to be on first Saturday in June. Chap. 129, Feb. 25, 1907.

293. Idaho: Amending sec. 81, H. B. No. 42, Laws, 1899, establishing and maintaining a system of free schools, as amended by S. B. No. 8, Laws, 1903, relative to election of members of boards of school trustees.

Election to be held on first Tuesday in September, instead of first Monday in September.

S. B. No. 92, p. 318, Mar. 13, 1907.

294. Idaho: Amending sec. 42, H. B. No. 42, Laws, 1899, as amended by sec. 1, S. B. No. 98, Laws, 1903, relative to election of boards of school trustees.

To be held on first Saturday in April instead of first Monday in June.

H. B. No. 96, p. 343, Mar. 13, 1907.

295. Illinois: Enabling school districts acting under special charters to hold elections for choosing school directors, members of boards of education, and members of boards of school inspectors at the time provided for the election of school directors under the general school law of the State.

Applies especially to Peoria.

S. B. 318, p. 525, Apr. 8, 1907.

296. Michigan: Amending sec. 2374, Compiled Laws, 1897, relative to the powers and duties of township officers.

Authorizing annual township meeting by majority vote to increase compensation of officers from a dollar and a half to two dollars per day. (Applies to school inspectors.) Special provisions for supervisor.

Act No. 98, May 22, 1907.

297. Michigan: Amending secs. 3, 4, 5, chap. 32, act No. 215, Acts, 1895 (secs. 3340, 3341, 3342, Compiled Laws, 1897), relative to annual election of school trustees in cities.

Requiring said election to be conducted similar to annual township elections (formerly graded school district elections). Notice of elections to be given fifteen (formerly ten) days previous to election. Providing for the appointment of three election commissioners; for the manner of nomination of trustees and the forms of ballot. Trustees, candidates for election, ineligible as inspectors of election. Prescribing qualifications of voters, and authority and duties of inspectors.

Act No. 110, May 22, 1907.

298. Minnesota: Fixing the hours during which the polls shall be open for the holding of school elections in certain independent school districts.

From 8 a. m. to 7 p. m. in independent districts containing a population of 50,000 or over.

Chap. 278, Apr. 22, 1907.

- D 299. Montana (1907): Session Laws, 1907, § 50, authorizing the establishment of county free high schools on a majority of the votes cast at an election on the proposition favoring the establishment of such a school. Held, not in conflict with constitution, art. 9, sec. 2, giving to qualified voters the right to vote on all questions that may be submitted to the vote of the people.—Evers v. Hudson, 92 P., 462.

300. Nebraska: Repealing, and reenacting with amendments, sec. 7457, Cobbe's Annotated Statutes, Supplement, 1906, relative to fees for election officers.

Prescribing fees for joint county, city, and school elections in counties having a population of over 125,000.

Chap. 4, Feb. 28, 1907.

301. Ohio: Repealing, and reenacting with minor amendments, sec. 14 (H. B. 1007, p. 242, Laws, 1894) act of May 15, 1894. Revised Statutes, relative to the conduct of elections to pay the expense of elections.

H. B. 794, p. 84, Apr. 9, 1906.

302. **Oklahoma:** Amending sec. 1, art. 3, chap. 33, Sess. Laws, 1905, and amending sec. 1, art. 3, chap. 72 (73?), Statutes, 1893, relating to annual school meetings and to district officers.

Changing date of annual district meetings from May to June. Special provision for 1908 (July) in order to permit new assessment under constitutional provisions. Defining powers and duties of district boards prior to annual meetings of 1908.

Chap. 34, H. B. 570, p. 398, May 19, 1908.

- D 303. **Oregon (1906):** B. & C. Comp. sec. 3386, providing that any citizen who has property in a school district on which he or she is liable to pay a tax shall be entitled to vote at any school district election, is not invalid as prescribing a property qualification in contravention of Const. art. 2, sec. 2, defining the qualifications of voters, it not applying to school district elections.—*Setterlum v. Keene*, 87 P. 763, 48 Or., 520.

304. **Pennsylvania:** Repealing sec. 2, act No. 17, Laws, 1850, as supplemented and amended by act No. 289, acts, 1868, relative to the time and manner of electing school directors in the city of Lancaster, and defining the qualifications of voters for the same.

Act. No. 150, May 14, 1907.

305. **Pennsylvania:** Supplementing act No. 3, acts, 1903, relative to school districts in townships and boroughs created therefrom.

Providing manner of certifying and returning votes cast in such district.

Act No. 178, May 23, 1907.

306. **South Carolina:** See enactment No. 658.

307. **South Dakota:** Prescribing the qualifications of voters in school districts situated in two counties.

Chap. 141, Feb. 20, 1907.

308. **Tennessee:** Amending sec. 2, chap. 17, acts, 1883, providing for a more efficient management of public schools and taxing districts where there is an incorporated system of public schools.

Changing time for the election of school commissioners from January to November.

Chap. 376, Apr. 11, 1907.

- D 309. **Texas (1908):** If at an election to determine whether territory embracing parts of different counties should be incorporated as an independent school district, under act of 1st sess., twenty-seventh legislature, sec. 2 (Laws, 1901), p. 29, chap. 15, or at an election after incorporation to determine whether bonds should be issued, polls should have been opened in each county instead of but one, the failure to open polls in each county is without prejudice to taxpayers in a county in which polls were not opened, where it does not appear that, excluding all the votes of those counties in which polls were not opened or counting them against the measures voted on, the result would have been different.—*Parks v. West*, 108 S. W., 466.

310. **Utah:** Amending in a minor manner sec. 1883, Revised Statutes, 1898, relative to elections for district school bonds.

Chap. 141, Mar. 25, 1907.

311. **Vermont:** Amending sec. 704, chap. 86, Public Statutes, 1894, relative to school elections.

Defining more accurately qualifications of women voting at school elections. Must be 21 years of age; may vote at all school elections and hold appointive as well as elective offices.

Sec. 5, act No. 43, Dec. 18, 1906. (Apr. 1, 1907.)

**312. Wisconsin:** Amending sec. 492, Statutes, 1898, as amended by chap. 345, Laws, 1903, as amended by chap. 329, Laws, 1905, relative to the election of free high school district officers.

Chap. 438, June 27, 1907.

**D 313. Wisconsin (1906):** Rev. Stat., 1898, sec. 943, as amended by Laws, 1903, p. 480, chap. 312, provides that no bonds shall be issued by any city until the proposition shall be submitted to the "people" of the municipality, and adopted by a majority voting thereon, and that when any such bond issue is contemplated, a special election for the purpose of submitting such question to the "electors" shall be called and held. *Held*, that the term "electors" referred to all persons legally entitled to vote on the proposition submitted, and therefore did not exclude women from voting on a proposition to issue bonds for the construction of a schoolhouse; such election being an election at which women are authorized to vote. under Rev. Stat., 1898, sec. 428a.—*Hall v. City of Madison*, 107 N. W., 31.

(f) Administrative Units; Districts, Townships, Municipalities, etc.;  
Formation, Division, Consolidation.

(See Section II, enactments 984-1020.)

The legislative activity relating to the consolidation of school districts was at its height several years ago. Most of the enactments in this direction during the past biennium are amendatory to previous measures, and seek to improve the details of the methods already prescribed so as to remove obstacles, administrative and judicial, that have developed, and to provide for the more complete protection of the interests of the consolidated districts. It has been found more convenient to discuss the more important of these consolidation acts under the head of transportation (Section H, subdivision c). Arizona (317) passed a new act relative to the consolidation of school districts. Ohio (348), (349), gave evidence of confidence in her plans for the centralization of rural schools by passing several important amendments to the existing laws upon this subject. The revision of the educational code of West Virginia incorporated a number of very important sections calculated to further the development of consolidation and transportation. The redefinition of depopulated school districts (331), and of partially depopulated school districts (332), in Kansas, is indicative of the tendency to eliminate that class of rural schools containing too small a number of pupils for efficient operation.

The Georgia decision (D 324) as to the operation of the acts of 1905 and 1906 concerning the creation of local tax district schools is of interest to those who are watching the development of the sentiment in the Southern States for increased local support for the common schools.

**314. Alabama:** Amending secs. 16, 19, 20, act No. 365, p. 289, Laws, 1903, providing for the redistricting and management of public schools.

Modifying, in minor manner, method of changing district lines and boundaries. Minor provisions concerning application of act to certain counties and municipalities.

Secs. 4, 6, 7, act. No. 363, p. 478, July 17, 1907. (Secs. 1691-1693, 1701, Code, 1907.)



315. **Arizona:** Amending para. 2165, 2166, 2167, 2170 (chap. 6, tit. 10, secs. 36, 37, 38, and 41), Revised Statutes, 1901, relative to the creation and rearrangement of school districts in certain cases.

Special provisions concerning the creation of new school districts which shall be coterminous with the boundaries of towns.

Chap. 30, Mar. 14, 1907.

316. **Arizona:** Amending par. 2155 (sec. 20, chap. 4, tit. 10), Revised Statutes, 1901, relative to the formation of new school districts.

Boundaries of school districts may be changed only between July 1 and September 1. Prescribing conditions.

Sec. 17, chap. 67, Mar. 21, 1907. (July 1, 1907.)

317. **Arizona:** Authorizing the consolidation of school districts.

Providing for procedure for consolidation; petition to county superintendent of parents or guardians of majority of school-census children of districts; approval by county superintendent; board of supervisors may then consolidate. Provisions regarding finances of the several districts consolidated, for the appointment of school trustees, etc.

Chap. 88, Mar. 21, 1907.

318. **California:** Amending sec. 1581, Political Code, 1900, relative to the formation of new school districts.

Order of board of supervisors creating new school district null and void unless school is opened not later than second Monday of September following date of order.

Chap. 43, Feb. 28, 1907.

319. **California:** Providing for the change of name of high school districts and union high school districts and the manner of making such change.

Chap. 516, Mar. 23, 1907.

- D 320. **California (1905):** A school district is a corporation of quasi municipal character, and, though its territorial limits may be actually coterminous with those of a city, the identity of the school district as a corporate entity is not lost or merged in that of the city.—*Los Angeles City School Dist. v. Longden*, 83 P. 246; *Los Angeles City High School Dist. v. Same*, Id., 248;

321. **Delaware:** Authorizing the county school commissioners to alter, divide, consolidate, or unite school districts for colored people.

Chap. 123, Mar. 20, 1907.

322. **Georgia:** Amending act No. 159, p. 425, acts, 1905, as amended by act No. 549, p. 61, acts, 1906, relative to the creation and operation of local-tax district schools, for the levying and collection of local tax by districts or counties for educational purposes, for the election of school trustees, etc.

Providing for modifications in the boundaries of school districts annually (formerly, biennially); for the right of hearing before grand jury by members of the county board of education charged with neglect of duty; for the election of five trustees in school districts containing incorporated towns; and for local taxation by "any school district."

Act No. 266, p. 100, Aug. 22, 1907.

- D 323. **Georgia (1907):** Act of Aug. 22, 1905 (Laws, 1905, p. 469), incorporating a school district in a certain county, is unconstitutional as being a special act, interfering with Pol. Code, 1895, secs. 1338-1408 (Gen. School Law), and a violation of the constitution (Clv. Code, 1895, sec. 5732), providing that laws of a general nature shall have a uniform operation throughout the State, and no special law shall be enacted in any case for which provision has been made by an existing general law.—(1907) *Sellers v. Cox*, 56 S. E. 284, 127 Ga. 246; (1906) *Houseworth v. Stevens*, 56 S. E. 288, 127 Ga. 266.

D 324. Georgia (1907) : Act of Aug. 23, 1905 (acts, 1905, p. 425), as amended by act of Aug. 21, 1906 (acts, 1906, p. 61), providing for the creation of local-tax district schools, is a valid law of uniform operation, and repeals all laws, general or special, which are so inconsistent that prior laws and the new law can not stand together.—*Edalgo v. Southern Ry. Co.*, 58 S. E., 846.

325. Idaho: Amending sec. 35, p. 93, Laws, 1899, as amended by sec. 5, p. 220, Laws, 1901 (sec. 1055, Political Code, 1901), as amended by sec. 1, p. 218, Laws, 1905, relative to the formation of school districts.

Vote to change boundaries of an organized district to be taken only at regular April meetings of board of county commissioners (formerly, quarterly meetings); change not to take effect before close of school year.

Districts of less than 9 square miles area may be divided only on the approval of county superintendent and by unanimous vote of board of county commissioners.

Special provisions concerning attendance of pupils upon schools of other districts.

H. B. No. 31, sec. 1, p. 16, Feb. 15, 1907.

326. Illinois: Providing for the annexation, for township high-school purposes, of any school township, or part of such township, not having an established township high school, to any adjacent school township having an established township high school.

Prescribing mode of procedure and manner of holding election.

H. B. 285, p. 534, Apr. 22, 1907.

327. Iowa: See enactment No. 682.

328. Iowa: Providing for the consolidation and change of boundaries of school districts in cities of the first class.

Authorizing cities having a population of 50,000 or over to consolidate all the territory into one school district. Providing for procedure before and after consolidation.

Chap. 155, Mar. 13, 1907.

D 329. Iowa (1908) : The day of a school election falls within the provisions of Code, sec. 2448, par. 9, providing that saloons shall not be open on "any election day."—*Hammond v. King*, 114 N. W., 1062.

The fact that a liquor dealer has been advised by the county attorney, the city attorney, and the chief of police that he may sell liquor on a day prohibited by Code, sec. 2448, par. 9, is no defense to a prosecution for the violation of the section; intent not being an element of the offense.—*Hammond v. King*, 114 N. W., 1062.

330. Kansas: Providing for the manner in which territory, outside, but adjacent to, the limits of cities in the first class having a population of not more than 30,000, may be attached to such cities for school purposes.

Territory may be attached by a city board of education upon application of a majority of electors of adjacent territory.

Chap. 31, Jan. 30, 1908.

331. Kansas: Repealing, and reenacting with amendment, sec. 6137, General Statutes, 1901 (sec. 4, chap. 135, Laws, 1893), relative to the definition of of a depopulated school district.

Substituting "fewer than five legal voters therein and fewer than seven persons between the ages of five and twenty-one years," for "less than three legal voters."

Chap. 322, Mar. 7, 1907.

332. Kansas: Repealing, and reenacting with amendments, sec. 6139, General Statutes, 1901, relative to the definition of a partially depopulated school district.

School districts having less than twelve persons between 5 and 21 years of age, to be deemed partially depopulated (formerly, seven persons).

Chap. 323, Mar. 7, 1907.



333. **Kansas:** Repealing, and reenacting with amendments, sec. 6112, General Statutes, 1904, relative to the formation and alteration of school district boundaries.

Providing that restrictions imposed as to school population and assessed valuation shall not prevent desirable changes in school district boundaries when the proposed alteration of boundaries is approved by the board of county commissioners.

Chap. 329, Mar. 9, 1907.

- D 334. **Kansas (1908):** Chap. 244, p. 384, Laws, 1907, purporting to legalize and validate the steps taken in the matter of the disorganization and consolidation of certain school districts, is not a curative or confirmatory act. It is creative in its nature, and attempts to originate a union district from separate districts which it attempts to disorganize.

The statute last referred to is a special act relating to the voluntary disorganization and consolidation of school districts. Under the power conferred upon it by sec. 17 of art. 2 of the constitution, this court decides that a general law can be made applicable to that subject, and therefore that the special act is void.—*Gardner et al. v. State ex rel. Burch, County Atty.*, 95 P., 588.

- D 335. **Massachusetts (1908):** Rev. Laws, chap. 44, sec. 1, requires children of a certain age to attend school. Petitioner lives on an island, which is a part of defendant town, lying some 4 miles from a larger island upon which the main part of the town is situated, there being no regular means of communication between the two islands, and communication being often difficult or impossible; and the town maintains no school upon petitioner's island, but has upon the main island a sufficient number of schools. Petitioner has five children, of the ages of 24, 19, 17, 12, and 4; owns the greater part of the island on which he resides, and pays taxes thereon; his family being the only one residing thereon, and his children the only ones who would attend the school there, and only one of them being within the compulsory school age. *Held*, that petitioner could not insist, under the circumstances, that the town maintain a school on his island for his sole benefit; he having chosen to establish himself on the island, and only two of his children being under fourteen years of age, and one of those not being of school age.—*Davis v. Inhabitants of Chilmark*, 85 N. E. 107.

336. **Minnesota:** See enactment No. 468.

337. **Minnesota:** Amending sec. 1282, Revised Laws, 1905, relative to the formation of school districts.

Providing for approval and disapproval of petitions by county superintendent.

Chap. 110, Apr. 5, 1907.

338. **Minnesota:** Amending sec. 1286, Revised Laws, 1905, relative to change of boundary lines of school districts and the formation of new school districts.

Prescribing procedure for the alteration of the boundaries of school districts containing or contained by any incorporated borough, village, or city.

Chap. 188, Apr. 15, 1907.

339. **Missouri:** Adding sec. 9875a, to art. 2, chap. 154, Revised Statutes, 1899, relative to changes of boundary lines of school districts.

Prescribing procedure. Providing for notices, board of arbitration and record.

H. B. No. 179, p. 426, Mar. 29, 1907.

340. **Montana:** Amending sec. 1770, art. 4, Political Code, 1895, as amended by sub. S. B. No. 56, p. 138, Laws, 1897, and as amended by H. B. No. 63, p. 57, Laws, 1899, relative to the election of school trustees.

Reclassifying districts on the basis of population.

Chap. 69, Mar. 4, 1907.

341. **Nebraska:** Providing for the equitable adjustment of school district boundaries when any school district has only three sections of land or less than three sections.

Chap. 116, Apr. 5, 1907.

342. **Nebraska:** Repealing and amending sec. 5422, chap. 79, Compiled Statutes, 1905 (sec. 11024, Cobbe's Annotated Statutes, 1903), relative to dissolution of school districts.

District must have failed to maintain organization for two consecutive years, in addition to other causes, before dissolution is lawful.

Chap. 117, Mar. 2, 1907.

343. **New Jersey:** Permitting certain boards of education to convey school-houses and lands to the boroughs or other municipalities in which they are situate.

Provided the lines of the municipality are coextensive with the lines of the school district.

Chap. 158, May 10, 1907.

344. **New Jersey:** Enabling adjoining municipalities, other than cities, lying in the same county, to consolidate and form a city.

Prescribing procedure, elections, etc. Providing that the term of teachers in service shall be added to the time devoted to teaching under new city government, in all legal computations of the time spent by said teacher in teaching in said new city.

Chap. 178, Apr. 11, 1908.

345. **New York:** Amending chap. 556, Consolidated School Law, 1894, relative to changing school districts.

Chap. 609, July 18, 1907.

346. **North Dakota:** Amending in a minor manner sec. 949, Revised Codes, 1905, relative to attaching adjacent territory for school purposes.

Chap. 106, Mar. 14, 1907.

347. **North Dakota:** Amending secs. 938, 939, 940, 941, 943, Revised Codes, 1905, relative to the creation of special school districts in incorporated cities, towns, and villages, constituting a part of a school district, and to dividing the property and indebtedness of such school districts.

Chap. 223, Mar. 13, 1907.

348. **Ohio:** Repealing, and reenacting with amendments, sec. 3923, Revised Statutes (1905), as amended Apr. 25, 1904 (S. B. 57, p. 344, Laws, 1904), abolishing joint subdistricts.

Providing for control of territory of subdistricts forming a part of two townships, both of which have centralized schools.

H. B. 682, p. 105, Apr. 15, 1908.

349. **Ohio:** Repealing and reenacting with amendments, sec. 3893, Revised Statutes (1905), relative to the annexation of territory to municipalities affecting school districts.

Providing for procedure for transfer of property of annexed territory.

H. B. 938, p. 117, Apr. 15, 1908.

350. **Oklahoma:** Amending sec. 1, art. 1, chap. 33, Laws, 1905, relative to the consolidation of school districts and transportation of pupils to and from school.

Requiring three-fourths vote instead of majority vote to effect consolidation.

Chap. 77, S. B. 237, p. 670, May 2, 1908.

351. Oregon: See enactment No. 1258.

D 352. South Carolina (1907): Constitution, art. 9, sec. 2, providing that no charter of incorporation shall be granted, changed, or amended by special law, relates to private or quasi public corporations, and not to school districts.—State v. McCaw, 58 S. E. 145, 77 S. C. 351.

D 353. Texas (1908): No express provision of the constitution of the State inhibits the legislature to authorize the incorporation of independent school districts having territory in more than one county, nor can such a limitation be implied from any of its provisions.—Park v. West, 108 S. W., 466.

D 354. Texas (1908): Under constitution, art. 7, sec. 3, as amended in 1883, providing that the legislature may provide for the formation of school districts within the counties of the State by general or special law, without the local notice required in other cases of special legislation, the legislature has power to create independent school districts without the notice of an intention to apply for the passage of such an act being given, as required by const., art. 3, sec. 57.—Snyder v. Baird Independent School Dist., 109 S. W., 472.

355. Utah: Relating to cities of the first, second, and third class, providing for the settlement between a school district or a part of a school district and a city when annexed by extension of city limits.

Chap. 56, Mar. 14, 1907.

356. Vermont: Providing for the union of town and incorporated school districts.

No. 58, Dec. 12, 1906.

357. Vermont: Extending the laws relating to the maintenance of schools in towns to school districts in unorganized towns and gorges and to incorporated school districts. Repealing sec. 1, act No. 2, Acts, 1898 (secs. 656, 826, 828, 829, 851, Statutes, 1904).

Act No. 60, Dec. 18, 1906. (Apr. 1, 1907.)

358. Virginia: Providing for the organization and government of incorporated communities which have no corporation courts, contain less than 10,000 inhabitants, and are hereafter declared to be cities of the second class.

Constituting such second-class cities as separate school districts, providing for one superintendent of schools for city and county. Manner of levying taxes.

Sec. 15, chap. 2, Jan. 23, 1908.

359. Virginia: Amending and reenacting subsec. 2, chap. 240, acts, 1906, as amending sec. 1470, Code, 1904, relative to the division of school districts and subdistricts, etc.

Striking out clauses providing for approval by state superintendent.

Chap. 42, Feb. 15, 1908.

360. Washington: Amending sec. 75 (Code of Public Instruction), relative to school districts of cities of 10,000 or more inhabitants.

Providing for annexation of adjacent or contiguous territory. Procedure.

Sec. 17, chap. 240, Mar. 18, 1907.

361. West Virginia: Enlarging the boundaries of the independent school district of the city of Charleston.

Providing for special election.

Chap. 17, Feb. 22, 1907.

## B. STATE FINANCE AND SUPPORT.

## (a) General.

The comparatively large number of enactments relating to finance and support exhibits clearly the continued and increasing importance of the financial aspects of public education. Of the fiscal legislation of a general character, that pertaining to the use of the "Forest Reserve Fund" is most prominent. California (362), Idaho (364), Montana (366), Nebraska (367), Nevada (369), Oregon (374), Pennsylvania (375), Utah (378), Washington (380), and Wyoming (382) provide that a certain proportion of this fund shall go into the public-school fund.

The two decisions, Kentucky (D 365) and Texas (D 377), upon the question of sectarian instruction, and the consequent right of schools to participate in the distribution of public-school funds, are noteworthy additions to the decisions already rendered in a number of States upon this point.

**362. California:** Creating the "United States Forest Reserve Fund" and regulating the manner of apportionment.

Fund to be composed of 10 per cent of moneys received from forest reserves in pursuance of act of Congress June 30, 1906. Fifty per cent of the apportionment received by any county to be placed to the credit of the unapportioned county school fund.

Chap. 277, Mar. 18, 1907.

**D 363. Florida (1905):** The legislature has the power to prescribe what college or colleges shall be the recipient or recipients of the interest on the fund derived from the sale of lands donated by act of Congress July 2, 1862, chap. 130, 12 Stat., 503, for the maintenance of one college at least for instruction in agricultural and mechanic arts.—*State v. Bryan*, 39 So., 929.

**364. Idaho:** Providing for the disposition of the forest reserve funds received and that may be received from the United States, for the benefit of the public schools, and public roads of the counties in which forest reserves are situated.

State treasurer to apportion the distributive share of such funds among the several counties in which such reserves are situated in proportion to the area of such reserve in such county. Twenty-five per cent thereof to be paid to the general school fund of the county for use in the construction, support, and maintenance of public-school houses and schools.

S. B. No. 33, p. 162, Mar. 5, 1907.

**D 365. Kentucky (1905):** A prayer offered at the opening of a public school, imploring the aid and presence of the heavenly Father during the day's work, asking for wisdom, patience, mutual love, and respect, looking forward to a heavenly reunion after death, and concluding in Christ's name, is not sectarian, and does not make the school a "sectarian school," within const., sec. 180, prohibiting the appropriation of educational funds in aid of sectarian schools.—*Hackett v. Brooksville Graded School Dist.*, 87 S. W., 702; 27 Ky. Law Rep., 1021; 69 L. R. A., 592.

360. **Montana:** Providing for the distribution among the various counties entitled thereto of the money derived from forest reserves under act of Congress, June 30, 1906.

One-half of amount to go to general school fund.

Chap. 127, Mar. 6, 1907.

367. **Nebraska:** Providing for the distribution of the United States forest reserve fund established under act of Congress, June 30, 1906.

Four-fifths of fund to go to public schools. Prescribing method of distribution and apportionment.

Chap. 143, Mar. 29, 1907.

- D 368. **Nebraska (1908):** Under unconstitutional acts of the legislature, the county board levied taxes ostensibly for the high-school district, which the taxpayers voluntarily paid. *Held*, that the taxes may be distributed to the high-school district of the county under the provisions of subsequent legislation.—School Dist. No. 30, Cuming County v. Cuming County, 116 N. W., 522.

369. **Nevada:** Providing that 10 per cent of proceeds of fees which issue to the counties from national forest reserves be paid into the county-school fund of the county.

Chap. 161, Mar. 29, 1907.

370. **New Jersey:** Amending sec. 1, chap. 277, Laws, 1907, as amending chap. 235, Laws, 1898 (Revision, 1898), relative to punishment of crimes.

No contract by any State institution or department exceeding \$1,000 (formerly \$500) without due advertisement and bond, except by state-house commission.

Chap. 23, Mar. 25, 1908.

371. **North Dakota:** Amending secs. 926, 928, and 935, Revised Codes, 1905, relative to deposits of school funds and the interest thereon.

Chap. 103, Mar. 13, 1907.

372. **Oklahoma:** Conferring jurisdiction on the supreme court to hear and determine actions brought to equitably divide and apportion the property, assets, and liabilities between certain counties in the State of Oklahoma, fixing basis of such divisions and apportionment, and providing a penalty for unlawfully withholding money belonging to counties, school districts, municipal townships, cities, and towns, and declaring an emergency.

Chap. 26, S. B. 160, p. 280, Apr. 10, 1908.

373. **Oklahoma:** Providing for and regulating proceedings in cases of escheats of property as enjoined by art. 22, Constitution.

Proceeds of such escheated property to go to public-school fund of county in which situated. Prescribing procedure.

Chap. 32, H. B. 613, p. 387, May 27, 1908.

374. **Oregon:** Providing for disposal of 10 per centum received from the United States Government for forest reserve rentals.

Money to be divided equally between school and road funds.

Chap. 160, Feb. 25, 1907.

375. **Pennsylvania:** Appropriating \$80,000 for payment of annual fixed charge for school and land purposes on land held for forest reserves.

According to No. 81, acts, 1905. (See enactment 186, Bureau of Education Bulletin, No. 8, 1906, p. 41.)

376. **South Carolina:** Authorizing state treasurer to receive from the United States Government a certain fund and to hold the same subject to the uses declared by an act of Congress.

Act No. 345, p. 760, Feb. 20, 1907.



D 377. **Texas** (1908): "The holding of certain exercises in the public schools. *Held not to violate constitution, art. 7, sec. 7, and art. 7, sec. 5, prohibiting the drawing from the treasury of money for the benefit of sects, religious societies, etc.—Church v. Bullock, 109 S. W., 115.*  
It is the purpose of the constitution to forbid the use of public funds for the support of any particular denomination of religious people, whether they be Christians or of other religions.—*Ibid.*

378. **Utah**: Creating "the county road and school fund from forest reserve," and providing for the apportionment and distribution thereof.

One-half of apportionment to be devoted to school districts.

Chap. 145, Mar. 25, 1907.

D 379. **Virginia** (1907): Acts 1869-70, p. 165, chap. 122, sec. 10, relating to taxation of the Hampton Normal and Agricultural Institute. *held* only to protect such institution against higher or different taxes than are levied against other educational institutions within the State.—*Commonwealth v. Trustees of Hampton Normal and Agricultural Institute, 56 S. E., 504.*

Land, houses, etc., belonging to an educational institution, rented out to third persons for profit, *held* not used exclusively for educational purposes, within constitution, 1889, art. 10, sec. 3, exempting such property from taxation.—*Commonwealth v. Trustees of Hampton Normal and Agricultural Institute.—Ibid.*

380. **Washington**: Providing for distribution and expenditure of moneys received from forest reserves.

To be expended for public schools and roads.

Chap. 185, Mar. 15, 1907.

D 381. **Wisconsin** (1908): Laws, 1901, p. 234, chap. 188, as amended by Laws, 1903, p. 525, chap. 329, requires a free high school board, if facilities warrant, to permit persons of school age residing in any town or incorporated village not within a free high school district to attend such high school; and Laws, 1903, p. 525, chap. 329, sec. 2, authorizes the board to charge a tuition fee against the city, town, or village from which the person has been admitted, showing the amount of tuition which the "district" is entitled to recover, which amount is to be entered on the tax roll against the part of the town or city not within the high school district from which the tuition is due. *Held*, that such tuition is payable to the high school district in which instruction is afforded, and not to the city containing such district, so that an action to recover the same must be brought by the district, which is a quasi corporation, and not by the city.—*City of Columbus v. Town of Fountain Prairie, 115 N. W., 111.*

382. **Wyoming**: Regulating distribution of funds received out of United States forest reserve fund.

Apportioning fund to counties in proportion to reserve acreage contained, one-half to school districts and one-half for betterment of public roads.

Chap. 7, Feb. 9, 1907.

#### (b) State School Lands.

The legislation relative to state school lands is characterized by providing for additional safeguards of this endowment of public education so as to prevent as far as possible the dissipation of these lands through the various forms of unwise disposal. North Dakota (397) proposed a constitutional amendment relative to the sale of school lands; Oregon (403), South Dakota (406-408), and Washington (414-417) enacted protective measures.

\* See "Recent decisions," at the close of this bulletin, for complete text of decision.

The constitutional provisions in Oklahoma (400), and the several enactments with reference to the care of the school lands of that State, have a considerable contemporary interest. In lieu of sections 16 and 36, and other lands in Indian Territory, Congress appropriated to Oklahoma (432) \$5,000,000, which sum is diverted to the use and benefit of the public schools of the State.

383. **Iowa:** Repealing secs. 2808 and 2855, Code Supplement, 1902, and secs. 2909 and 2850, Code, 1897, and reenacting substitutes with amendments, relative to the permanent school fund.

Sundry amendments concerning procedure in the sale and resale of school lands; reports by county officials; apportionment of interests and rents; compensation of county auditor.

Chap. 151, Apr. 10, 1907.

384. **Kansas:** Relative to forfeiture of right and interest of certain purchasers in and to school lands, prescribing manner in which such forfeiture may be shown, and limiting time within which actions may be brought by such purchasers to recover such lands, or for the determination of their interest therein.

Chap. 373, Jan. 24, 1907.

385. **Kansas:** Providing for the sale of islands in navigable streams for benefit of permanent school fund.

Chap. 378, Mar. 7, 1907.

386. **Louisiana:** Amending and reenacting sec. 2902, Revised Statutes (1904), relative to leasing of school lands.

Providing for election to determine upon sale of timber or lease of mineral rights. Procedure.

Act No. 129, July 2, 1908.

387. **Louisiana:** Memorializing Congress for a bill granting to the State the public lands of the United States situated in the State, the proceeds of the sale thereof to be used in the support of the common schools.

Act No. 272, July 9, 1908.

388. **Montana:** Relating to selection of indemnity school lands and lands granted to all state institutions of learning and for public buildings in Montana.

No further selections to be made in counties in which State has already selected 100,000 acres or more.

Chap. 50, Feb. 27, 1907.

389. **Nebraska:** Amending sec. 9865, Cobby's Annotated Statutes, 1903, relative to certificates of purchase of lands heretofore sold, and repealing sec. 9870b, Cobby's Annotated Statutes, Supplement, 1905.

Fixing rate of interest on sale contracts heretofore issued; providing for the issuance of sale contracts for lands hereafter sold, and fixing rate of interest on same, and providing for interest on interest and rental after due.

Chap. 133, Apr. 5, 1907.

390. **Nebraska:** Repealing, and reenacting with amendments, sec. 9870, Cobby's Annotated Statutes, Supplement, 1905, relative to the sale of educational lands, and repealing secs. 9870a, 9870b, 9870c, Cobby's Annotated Statutes, Supplement, 1905 (chap. 144, Laws, 1905).

Sundry amendments relative to whom sales of educational lands may be made.

Chap. 134, Apr. 9, 1907.

391. **Nebraska:** Repealing, and reenacting with amendments, sec. 9872, Cobbe's Annotated Statutes, 1903, relative to taxation of certain public lands. Providing for taxation of educational and saline lands held on sale contract.

Chap. 135, Apr. 4, 1907.

392. **New Mexico:** Refunding to territorial institutions moneys used for expenses in selection and location of public lands, and providing for payment of future expenses in the selection and location of public lands.

Concerns, among others, Blind Asylum, Military Institute, normal schools, School of Mines, Deaf and Dumb Asylum, Agricultural College, university and common school income fund.

Chap. 79, Mar. 21, 1907.

393. **New Mexico:** Providing for the leasing, sale, management, and control of all lands now owned or hereafter acquired by the Territory; creating a territorial land office, a commissioner thereof, and prescribing the duties of such officer; providing for the care, custody, disposition, and investment of moneys derived from all territorial lands by leasing, sale, or otherwise. Repealing chap. 74, Laws, 1899; chap. 60, Laws, 1901; chaps. 78 and 81, Laws, 1903, and chaps. 90 and 111, Laws, 1905.

Relating to the disposition of revenues derived from land sections 16 and 36, the crediting of the same to the common school fund, and the apportionment and distribution to the several counties.

Secs. 31, 32, and 33, chap. 104, Mar. 21, 1907.

394. **North Dakota:** Authorizing holders of state or school land contracts for lands over which railroads have been or may be located and established subsequent to the issuance of such contracts, to surrender such contracts and obtain new contracts for the land less the rights of way required for such railroad, and providing for the payment to the State of the balance of the purchase price of the land required for such rights of way and the issuance of deeds therefor.

Chap. 225, Mar. 19, 1907.

395. **North Dakota:** Amending sec. 183, Revised Codes, 1905, relative to the surrender of state or school land contracts and the division of the land covered thereby, and the issuance of new contracts for such subdivisions.

Chap. 226, Mar. 19, 1907.

396. **North Dakota:** Amending sec. 182, Revised Codes, 1905, relative to assignee of purchasers of school lands.

Chap. 227, Mar. 8, 1907.

397. **North Dakota:** Agreeing to amendment, proposed by legislature of 1905, to sec. 158 of the constitution relative to the sale of state lands.

Modifying conditions for fulfillment of contracts for sale for non-payment of taxes. (Vote Nov., 1908.)

Con. Res., p. 457, Mar. 23, 1907.

398. **Ohio:** Supplementing sec. 1418, Revised Statutes, by adding sec. 1418a, legalizing defects in proceedings for the sale of all lands in sec. 16, and of all lands in any other section in lieu thereof, granted for school purposes, in all townships within the State.

S. B. 472, p. 359, May 9, 1908.

399. **Oklahoma:** See enactment No. 432.

400. Oklahoma: Constitutional provisions concerning state and school lands (adopted Sept. 17, 1907).

# ARTICLE XI.

## STATE AND SCHOOL LANDS.

"SECTION 1. The State hereby accepts all grants of land and donations of money made by the United States under the provisions of the enabling act, and any other acts of Congress, for the uses and purposes and upon the conditions, and under the limitations for which the same are granted or donated; and the faith of the State is hereby pledged to preserve such lands and moneys and all moneys derived from the sale of any of said lands as a sacred trust, and to keep the same for the uses and purposes for which they were granted or donated.

"Sec. 2. All proceeds of the sale of public lands that have heretofore been or may be hereafter given by the United States for the use and benefit of the common schools of this State, all such per centum as may be granted by the United States on the sales of public lands, the sum of five million dollars appropriated to the State for the use and benefit of the common schools in lieu of sections sixteen and thirty-six, and other lands of the Indian Territory, the proceeds of all property that shall fall to the State by escheat, the proceeds of all gifts or donations to the State for common schools not otherwise appropriated by the terms of the gifts, and such other appropriations, gifts, or donations as shall be made by the legislature for the benefit of the common schools, shall constitute the permanent school fund, the income from which shall be used for the maintenance of the common schools in the State. The principal shall be deemed a trust fund held by the State, and shall forever remain inviolate. It may be increased, but shall never be diminished. The State shall reimburse said permanent school fund for all losses thereof which may in any manner occur, and no portion of said fund shall be diverted for any other use or purpose.

"Sec. 3. The interest and income of the permanent school fund, the net income from the leasing of public lands which have been or may be granted by the United States to the State for the use and benefit of the common schools, together with any revenues derived from taxes authorized to be levied for such purposes, and any other sums which may be added thereto by law, shall be used and applied each year for the benefit of the common schools of the State, and shall be, for this purpose, apportioned among and between all the several common school districts of the State in proportion to the school population of the several districts, and no part of the fund shall ever be diverted from this purpose, or used for any other purpose than the support and maintenance of common schools for the equal benefit of all the people of the State.

"Sec. 4. All public lands set apart to the State by Congress for charitable, penal, educational, and public building purposes, and all lands taken in lieu thereof, may be sold by the State, under such rules and regulations as the legislature may prescribe, in conformity with the regulations of the enabling act.

"Sec. 5. Section thirteen in every portion of the State, which has been granted to the State, shall be preserved for the use and benefit of the University of Oklahoma and the University Preparatory School, one-third; of the normal schools now established, or hereafter to be established, one-third; and of the Agricultural and Mechanical College and Colored Agricultural and Normal University, one-third. The said lands or the proceeds thereof as above apportioned to be divided between the institutions as the legislature may prescribe: Provided, That the said lands so reserved, or the proceeds of the sale thereof, or of any indemnity lands granted in lieu of section thirteen shall be safely kept or invested and preserved by the State as a trust, which shall never be diminished, but may be added to, and the income thereof, interest, rentals, or otherwise, only shall be used exclusively for the benefit of said educational institutions. Such educational institutions shall remain under the exclusive control of the State and no part of the proceeds arising from the sale or disposal of any lands granted for educational purposes, or the income or rentals thereof, shall be used for the support of any religious or sectarian school, college, or university, and no portion of the funds arising

from the sale of sections thirteen or any indemnity lands selected in lieu thereof, either principal or interest, shall ever be diverted, either temporarily or permanently, from the purpose for which said lands were granted to the State.

"Sec. 6. The permanent common school and other educational funds shall be invested in first mortgages upon good and improved farm lands within the State (and in no case shall more than fifty per centum of the reasonable valuation of the lands without improvements be loaned on any tract). Oklahoma state bonds, county bonds of the counties of Oklahoma, school district bonds of the school districts of Oklahoma, United States bonds; preference to be given to the securities in the order named.

"The legislature shall provide the manner of selecting the securities aforesaid, prescribe the rules, regulations, restrictions, and conditions upon which the funds aforesaid shall be loaned or invested, and do all things necessary for the safety of the funds and permanency of the investment."

401. **Oklahoma:** Providing for appraisalment of lands granted to the State for educational and other public building purposes; authorizing the commissioners of the land office to procure geographical and statistical information concerning the same; providing for renewal of certain leases thereon pending such appraisalment, and authorizing the commissioners of the land office to make leases thereafter.

Chap. 49, H. B. 414, p. 484, Apr. 8, 1908.

402. **Oklahoma:** Authorizing commissioners of the land office to lease public lands for oil and gas purposes.

Income from school lands leased to go to proper school fund.

Chap. 49, S. B. 338, p. 490, May 26, 1908.

403. **Oregon:** Repealing chaps. 2 and 3, tit. 32, Bellinger and Cotton's Annotated Codes and Statutes, 1901, relative to public lands, and repealing S. B. No. 154, p. 308, Laws, 1903, relative to the selection of indemnity school land, and repealing S. B. No. 80, Laws, 1905, relative to land clerk's salary, and repealing H. B. No. 46, p. 21, Laws, 1903, relative to investment of the surplus of the Irreducible school fund, etc., and enacting substitutes.

Providing for the acquisition, classification, management, control, leasing, sale, and disposition by the State of all lands inuring to the State from any and all sources, and for the management and investment of moneys arising therefrom, constituting all necessary officers therefor, specifying their duties and salaries, giving them full powers for the performance thereof, protecting said lands from trespass and injury, and providing penalties.

Chap. 117, Feb. 23, 1907.

404. **Oregon (1907):** Constitution, art. 8, sec. 5, provides that the governor, secretary of state, and state treasurer shall constitute a board of commissioners for the sale of school and university lands and for the investment of the funds arising therefrom, and their powers and duties shall be such as may be prescribed by law. *Held*, that such board was the state's instrument for the sale and disposition of state school lands, and its decisions with reference to who should be entitled to a patent prior to the issuance thereof were not subject to review by the courts.—*De Lattre v. Board of Com'rs*, 140 F. 800.

405. **South Dakota:** Amending sec. 393, art. 1, chap. 6, Revised Political Code, 1903, relating to fees derived from the lease and sale of school and public lands.

Chap. 225, Mar. 6, 1907.



406. **South Dakota:** Providing for the classification and sale of indemnity, common school, and endowment lands.  
Providing for classification into agricultural, timber, and grazing lands, and for the annual sale, beginning with the year 1908, of 50,000 acres until one-fourth of such lands is sold.  
Chap. 226, Mar. 6, 1907.
407. **South Dakota:** Promoting the sinking of artesian wells upon school and public lands.  
Chap. 227, Mar. 7, 1907.
408. **South Dakota:** Amending sec. 385, Revised Political Code, 1903, as amended by chap. 145, Laws, 1905, relative to patents to state lands.  
Chap. 228, Feb. 8, 1907.
409. **Texas:** Validating certain sales of school lands.  
Chap. 18, Mar. 14, 1907.
410. **Texas:** Authorizing the commissioner of the general land office, with the consent and approval of the governor and attorney-general, to sell the guayule, lechugilla, and other vegetation on school land, and to enter into contracts for the purpose of determining the commercial value of substances found upon public free school land.  
Chap. 135, Apr. 18, 1907.
411. **Texas:** Providing for the survey of mineral bearing school lands.  
Chap. 147, Apr. 19, 1907.
- D 412. **Texas (1908):** The policy of the State in the disposition of its school lands is to sell only to those who will actually settle on them and occupy them as homes.—*Bourn v. Robinson*, 107 S.W., §73.
413. **Utah:** Appropriating \$5,000 to the state board of land commissioners for the employment of counsel and costs and expenses of witnesses in the prosecution or defense of suits, action, or proceedings, wherein the title or right of the State to school lands is brought into question.  
Chap. 11, Feb. 28, 1907.
414. **Washington:** Amending sec. 25, chap. 66, Laws, 1901, as amended by sec. 1, chap. 127, Laws, 1905, relating to assessments of state, school, granted, and other lands for drainage purposes.  
Chap. 91, Mar. 9, 1907.
415. **Washington:** Relative to the board of state land commissioners.  
Providing for an investigation and report to the legislature upon the management of and laws concerning public lands.  
Chap. 114, Mar. 11, 1907.
416. **Washington:** Amending sec. 14, chap. 89, Laws, 1897, relative to the sale or lease of state lands.  
Chap. 152, Mar. 13, 1907.
417. **Washington:** Amending sundry sections of Annotated Codes and Statutes relating to the selection, survey, management, reclamation, lease, and disposition of state lands.  
Chap. 250, Mar. 20, 1907.

(c) Permanent State School Funds: Composition and Investment.

The most important item of legislation under this heading is that of Vermont (435), providing for the management, investment, and distribution of the permanent school fund created in 1904. This

legislation was the direct result of the plan formulated by the special commission appointed in 1904. It is thought to be of sufficient general interest to warrant the presentation of the measure in full. The use of the federal payment of \$5,000,000 to the State of Oklahoma (432) for the benefit of the common schools of that State has already been noted, Nebraska (425) and North Dakota (430) each proposed amendments to their constitutions relative to the extension of the investment of educational funds.

417a. **California:** Providing for the loan from the school-land fund to the State of \$250,000, and providing for the transfer, repayment with interest, etc.

Exempting money so loaned and transferred from the provisions of sec. 680, Political Code, 1906, relative to the conversion of school funds into bonds.

Chap. 409, Mar. 20, 1907.

418. **Delaware:** Authorizing and directing the state treasurer to transfer the sum of \$5,900 from the general fund to the school fund.

Made in order to observe provision of sec. 2, art. X, of state constitution, concerning the inviolability of the school fund.

Jt. Res., Chap. 268, Jan. 11, 1907.

419. **Indiana:** Directing the distribution of certain special funds, as a part of the common school fund, and providing for the adjudication of "unclaimed estates" funds for payment into common school fund.

Special funds known as "common school fund balance," "old sinking fund," "surplus revenue fund," "excess bid sinking fund," "sales common schools lands," and "sales swamp land," total, \$90,628.95, to become part of common school fund. Also, unclaimed estates funds remaining in state treasury for five years.

Chap. 43, Feb. 25, 1907.

420. **Indiana:** Concerning the publishing for loan of the common school fund.

Providing for quarterly advertisement by county auditor of amount subject to loan; maximum publication fee of \$1.50. Loan funds of \$1,000 to be posted in auditor's office. Special provision for publication in cities. Penalty for noncompliance by auditor.

Chap. 50, Feb. 25, 1907.

421. **Kansas:** Repealing, and reenacting with amendments, chap. 473, Laws, 1905, relative to the exchange of bonds held by the permanent school fund.

Chap. 377, Mar. 9, 1907.

422. **Massachusetts:** Repealing, and reenacting with amendments, chap. 100, acts, 1903, relative to the technical education fund, United States grant.

Chap. 121, Feb. 10, 1907.

423. **Minnesota:** Amending sec. 2435, Revised Laws, 1905, relative to the board of investment of permanent school and university funds.

Sundry amendments regarding investment and interest.

Chap. 348, Apr. 28, 1907.

424. **Minnesota:** Relating to the swamp-land fund of the State of Minnesota.

Providing for the transfer of certain funds arising from the sale of swamp lands to the "swamp-land fund." Allotting one-half of the annual interest therefrom to the "general school fund" and one-half to the "revenue fund." "Revenue fund" to go to the several educational and charitable institutions.

Chap. 395, Apr. 24, 1907.

425. **Nebraska:** Proposing an amendment to sec. 9, art. 8, constitution, 1875, relative to the investment of educational funds.

Extending power of investment so as to include registered school district bonds of the State and such other securities as the legislature may from time to time direct. (Adopted, November, 1908.)

Jt. Res., Chap. 201, Mar. 5, 1907.

426. **New Mexico:** Relative to the sale of intoxicating liquors on trains.

Funds derived from licenses and fines to be paid into Territorial school fund.

Sec. 5, chap. 8, Mar. 6, 1907.

427. **North Dakota:** Amending sec. 165, Revised Codes, 1905, providing for the appointment of a deputy commissioner of university and school lands.

Substituting deputy for chief clerk.

Chap. 163, Mar. 13, 1907.

428. **North Dakota:** Amending sec. 155, chap. 4, Revised Codes, 1905, and amendatory acts, relative to investment of permanent school funds by the board of university and school lands (see chap. 228).

Extending power of investment so as to include bonds of counties and townships within State. Providing for compensation of members of board. Sundry amendments concerning conditions of investment in farm mortgages.

Chap. 224, Mar. 19, 1907.

429. **North Dakota:** Amending sec. 155, chap. 4, Revised Codes, 1905, relative to investment of permanent school funds by the board of university and school lands (see chap. 224).

Chap. 228, Jan. 16, 1907.

430. **North Dakota:** Agreeing to amendment proposed by legislature of 1905, to sec. 162 of the constitution, relative to investment of permanent school funds.

Extending investment so as to include county, township, municipal, and drainage bonds of State, and bonds of other States that have never repudiated any indebtedness.

Con. Res., p. 456, Mar. 23, 1907.

431. **Oklahoma:** Conferring on the commissioners of the land office, consisting of the governor, secretary of state, state auditor, superintendent of public instruction, and president of the board of agriculture, authority to manage, loan, invest, and regulate investment and deposit of the permanent school funds.

Chap. 76, H. B. 8, p. 664, Dec. 18, 1907.

432. **Oklahoma:** Authorizing payment to the state treasurer of \$5,000,000 and interest thereon, appropriated to the State of Oklahoma by an act of Congress, June 16, 1906, for the use and benefit of the common schools of the State, in lieu of sections 16 and 36 and other lands, in Indian Territory.

Chap. 76, H. B. 8, p. 662, Dec. 17, 1907.

433. **Oregon:** Memorializing Congress to enact a law to give to the State to become a part of the principal of the irreducible school fund, the net receipts of the Government of the United States from all the forest reserves within the State.

S. Jt. Mem. No. 5, p. 518, Feb. 14, 1907.

434. **South Dakota:** Authorizing the commissioner of school and public lands to sell pine timber grown upon such lands.

Proceeds to go to permanent school fund.

Chap. 224, Feb. 25, 1907.

435. **Vermont:** Providing for a permanent public-school fund,\* creating a board of trustees to manage the same, and directing the investment and distribution thereof. Amending sec. 740, Public Statutes, 1894, and repealing secs. 737, 738, 741, 742, 743, 744, 749, 750, 751, 753, and all amendments thereto. Public Statutes, 1894. Repealing act No. 42, Acts, 1904.

"SECTION 1. The sum of two hundred forty thousand dollars returned by the National Government to the State in settlement of the civil war claims, the Huntington fund, the United States deposit money, and such other additions as may hereafter be made to the fund hereby established shall be forever held intact and in reserve as a permanent public school fund.

"Sec. 2. A board to be known as trustees of permanent school fund is hereby constituted, consisting of the governor, lieutenant-governor, state treasurer and superintendent of education, ex officio, and three persons to be appointed biennially by the governor, whose term of office shall continue until the first day of November of the next biennial year and until their successors are appointed and qualified, unless sooner removed by the governor. Said trustees shall invest the permanent public school fund in the following-named securities only: United States bonds, state bonds, bonds of cities and school districts located in the United States, excluding Territories, and having a population of over twenty thousand, and bonds of towns, cities and villages in this state, whose total indebtedness does not exceed five times the amount of the grand list. Said board of trustees is empowered to receive gifts, bequests or additions to such permanent public school fund, and all purchases and sales of securities shall be made by, and all securities shall be taken in the name of, and so far as possible made payable to the trustees of permanent school fund.

"Sec. 13. The income only from said permanent school fund shall be covered into the state treasury, fifteen thousand dollars of which shall annually be divided among the towns, cities, and unorganized towns and gores entitled thereto, in the same manner as the forty-five thousand dollar reserve fund is divided, and the remaining portion of the income shall be divided by the state treasurer among the towns, cities, and unorganized towns and gores according to the numbers of legal schools maintained the preceding year, and such division shall be made at the same time the moneys derived from the state school tax are now divided. The income thus distributed shall be used solely for the support of public schools, and shall, in unorganized towns and gores, be divided equally between the several school districts which have maintained a legal school the preceding year, and in towns having a district incorporated by a special act of the general assembly, as is provided for the division in such towns of money received from the State school tax."

Act No. 54, Dec. 14, 1903.

436. **Vermont:** Directing the payment for printing 500 copies of the report of the special commission on permanent school fund.

Jt. Res. No. 404, Dec. 7, 1903.

437. **Washington:** Providing for investment of the permanent school fund and permanent funds of the normal schools, state university, scientific school, agricultural college, and charitable, educational, penal, and reformatory institutions.

Creating a state board of finance to be composed of governor, state treasurer, and state auditor. Prescribing mode and conditions of investment of funds.

Chap. 12, Feb. 11, 1907.

438. **Washington:** Relating to escheats.

All escheats to belong to permanent school fund.

Chap. 133, Mar. 12, 1907.

\* Created in accordance with recommendations of commission provided for by act No. 42, Acts, 1904. (See enactment No. 209, Bureau of Education Bulletin, No. 3, 1906.)

## (d) State Taxation for School Purposes.

The legislation of the biennium with respect to state taxation for public school purposes contains several important enactments. Those of Arkansas (439), Indiana (441), Maine (443), Oklahoma (446), (447), Texas (448), Utah (449), and of Washington (451), are selected as indicative of the marked trend to provide for a more generous support of the public elementary and secondary schools. Of the foregoing list, the increased school revenue provided in Indiana is perhaps worthy of special mention.

439\*. **Arkansas:** Amending act No. 266, acts, 1905, relative to rate of taxation for general state purposes.

Increasing state tax for support of common schools from 2 to 3 mills.  
Sec. 1, act No. 189, Apr. 17, 1907.

440. **Illinois:** Providing for the necessary revenue for state purposes.

Providing that there be raised for state school purposes, to be designated as "state school fund," the sum of \$1,000,000 upon the assessed taxable property for each of the years 1907 and 1908, in lieu of the 2 mill tax.

S. B. 546, p. 498, May 27, 1907.

441\*. **Indiana:** Amending sec. 1, chap. 32, Laws, 1905, providing for the levy of an annual tax for a state common school tuition fund.

Increasing the annual tax from 11 cents and 6 mills to 13 cents and 6 mills, and providing in addition thereto a poll tax of 50 cents upon each legal voter. [See enactment 221, p. 48, Bureau of Education Bulletin No. 3, 1906; State School Systems.]

Chap. 249, Mar. 11, 1907.

D 442. **Louisiana (1908):** The school tax authorized by constitution, art. 232, to be levied in aid of public schools, is not a special assessment, and property exempted from taxation by the constitution is not subject to it.—*Louisiana & N. W. R. Co. v. State Board of Appraisers*, 45 So., 394.

443. **Maine:** Amending sec. 124, chap. 15, Revised Statutes, 1903, relative to the mill tax.

Increasing state tax for support of common schools from 1 mill to 1½ mills.

Sec. 2, chap. 111, Mar. 26, 1907. (Jan. 1, 1908).

444. **Nebraska:** Repealing sec. 11,150, Cobby's Annotated Statutes, 1906, relative to special state tax levy of 1½ mills for the state common school fund.

Chap. 125, Apr. 5, 1907.

445. **Nevada:** See enactment No. 29.

446. **Oklahoma:** Providing for a tax on gifts, inheritances, bequests, legacies, devices, and successions in certain cases.

One-half of proceeds of tax to be used for the public schools of the State as other available state common school funds.

Chap. 81, H. B. 492, p. 733, May 26, 1908.

447. **Oklahoma:** Providing for the levy and collection of a tax on income.

Proceeds from graduated income tax to be for the benefit of available common school fund of the State.

Chap. 81, H. B. 557, p. 730, May 26, 1908.

448. **Texas:** Amending art. 5047, chap. 1, tit. 104, Revised Civil Statutes, 1895, relative to ad valorem taxes for free-school purposes.

Increasing state levy from 18 to 20 cents per \$100.

Chap. 66, Apr. 6, 1907.



449. **Utah:** Proposing an amendment to sec. 7, art. 12, of the constitution relative to revenue and taxation.

Fixing the proportion of the maximum tax rate (8 mills) to be devoted to the enumerated purposes: 44 mills for general state purposes; 3 mills for district-school purposes; one-half mill for high-school purposes. S. J. R. No. 2, p. 272 (to be effective Jan. 1, 1906).

Defeated, November, 1905.

450. **Vermont:** Exempting real and personal property of college fraternities and societies from taxation.

Excepting that held for investment purposes.

Act. No. 27, Dec. 6, 1904.

451. **Washington:** Amending sec. 111, chap. 118 (Code of Public Instruction), Laws, 1897, relative to state levy of taxes for school purposes.

Increasing amount of annual state tax from \$6 to \$10 for every child of school age. Maximum, 5 mills. Manner of apportionment.

Chap. 102, Mar. 11, 1907.

452. **West Virginia:** Amending and reenacting sec. 100, chap. 35, Acts, 1905, relative to the payment of taxes upon property assessed by the board of public works.

Duty of state auditor in cases of overpayment of taxes. Certificate to county courts, school districts, and municipalities.

Chap. 48, Jan. 25, 1907.

#### (c) General Apportionment of State School Funds: Special State Aid for Elementary Education.

Of the means for the extension and development of public education none possesses more widespread influence than that of the general financial support by the State as a unit. To this end systems of general state taxation have been inaugurated, and permanent state school funds have been established. By the income derived from these two sources the States have aimed to reduce the burden of the support of public schools by local taxation alone, to stimulate the growth of local endeavor for the provision of adequate educational opportunities, and to equalize the frequently varying advantages for education among the different communities in the same State.

The most important problem in this connection is that of an equitable and just form of distribution or apportionment of the state educational revenues in order that the ends above mentioned may be accomplished in the best manner possible, and in order that the support provided through the State may become a real and positive force in the provision of adequate school facilities for all the children in the State. Distributions to the various school communities of the State on the basis of taxes paid, property valuation, number of children of school age, total school enrollment for a certain definite period, average daily membership, average daily attendance, or aggregate days of attendance may be indicated among the methods that have been devised and utilized, singly or in combination, at various times by different States. In general, it may be said that

distribution on the basis of the school population or census has been, and is, the prevailing method at the present time.

The very evident aim of this latter method of distribution is to diminish the burdens of local support and to equalize the educational opportunities within the State upon the presumption that the school population is the best index of the local educational needs. However, in certain States, during recent years, the weakness of this conclusion has been recognized, and attempts have been made to formulate some single or combination method of distribution which would not merely preserve an equality in the amount of assistance given by the State to the different school communities, but which would in reality give help where help was most needed. The methods of distribution on the basis of school enrollment or attendance belong to this class of efforts. More recently, it has come to be recognized that the number of teachers employed gives a far better basis for distribution than either the school census or school attendance, and that a combination basis of the number of teachers and the amount of school attendance represents perhaps the most equitable method for the utilization of the state school fund.

Any reasonable estimate of comparative importance would place a number of the items of this group in the front rank of progressive legislation. More and more each year the different States are endeavoring to extend financial assistance to the least wealthy school communities by making direct appropriations for the expansion and improvement of the various grades of elementary schools. Connecticut (459, 460), Florida (461, 462), Maine (466), Maryland (467), Minnesota (468), Nebraska (469), Ohio (476), Utah (484), Virginia (486), West Virginia (489), and Wisconsin (491, 492), may be selected as typical of what is being accomplished to raise educational standards by wisely directed financial assistance. Indiana (631) amended her noteworthy enactment of 1905 establishing a reserve fund to be distributed to those communities which had made the maximum local effort permitted by law for the support of public schools and yet were unable to meet the minimum educational demands and standards established by the State.

The decision of the California supreme court (D 457) as to the status of kindergartens as a part of the public-school system is included under this head because of the present day widespread interest in the establishment of kindergartens as an integral part of public-school system.

453. Alabama: See enactment No. 706.

454. Arizona: Amending subdvs. 1, 2, and 3, par. 2258 (sec. 128, chap. 16, tit. 19), Revised Statutes, 1901, relative to apportionment of school funds. Fixing more definitely classification of districts; increasing amount of apportionment to districts of each class. No district to share in

apportionment unless teachers employed hold legal certificates or diplomas in force, and unless school has been maintained at least six months during the next preceding school year.

Sec. 5, Chap. 67, Mar. 21, 1907. (July 1, 1907.)

455. **Arizona:** Amending par. 2246 (sec. 116, chap. 14, tit. 19), Revised Statutes, 1901, relative to territorial school tax.

Simplifying method of paying out territorial school revenues by territorial treasurer.

Sec. 6, Chap. 67, Mar. 21, 1907. (July 1, 1907.)

456. **Arizona:** Amending par. 2260 (sec. 130, chap. 17, tit. 19), Revised Statutes, 1901, relative to apportionment of school funds.

Providing for procedure in cases of districts discontinued by reason of an average attendance of less than eight pupils for three months.

Sec. 21, Chap. 67, Mar. 21, 1907. (July 1, 1907.)

457. **California (1905):** "Constitution, art. 9, sec. 5, requires the legislature to provide for a system of "common schools" by which a free school shall be kept up and supported in each district. Sec. 6 provides that the "public-school system" shall include "primary and grammar schools," and such high schools, evening schools, etc., as may be established by legislative or local authority, and further provides that the entire revenue derived from the state school fund shall be applied exclusively to the support of "primary and grammar schools." Pol. Code, secs. 1622, 1861, reiterate the requirement that the revenue of the state school fund shall be applied solely to primary and grammar schools. Sec. 1532 requires the superintendent of public instruction to apportion the balance of the state school fund which remains after providing for teachers to the several counties according to their "average daily attendance," as shown by reports of the county superintendents for the preceding year. Secs. 1617, 1662, and 1663 recognize, and make certain provisions in relation to, the adoption of kindergartens as part of the "public primary schools" in cities and towns. *Held*, that, notwithstanding the legislative designation of kindergartens as "primary" schools, such institutions are not primary and grammar schools" within the meaning of the constitutional and statutory provisions for the distribution of the state school fund, and the kindergarten attendance is not to be computed in ascertaining the proportion of the school fund to which a county is entitled.—Los Angeles County v. Kirk, 83 P., 250.

458. **Connecticut:** Amending sec. 3, chap. 102, acts, 1903, concerning state aid for support of schools.

Requiring, as a condition of state aid, a certification that schools have been taught by teachers legally examined and qualified and not disapproved by state board of education.

Chap. 135, June 21, 1907.

459. **Connecticut:** Amending sec. 1, chap. 102, acts, 1903, concerning state aid for support of schools.

Extending provisions of act so as to include towns having a valuation of less than \$1,000,000 (previously, less than \$500,000).

Appropriating \$60,000 for this purpose for the two fiscal years ending September 30, 1909.

Chap. 218, July 17, 1907.

460. **Connecticut:** Amending sec. 5, chap. 195, acts, 1903, concerning state aid for the supervision of schools.

Extending provisions of act so as to include towns having not more than 20 teachers (previously, 10).

Chap. 259, July 31, 1907.

\* See "Recent decisions," at the close of this bulletin, for complete text of decision.

461. **Florida:** Amending sec. 12, chap. 5382, acts, 1905, defining grades of instruction which shall be taught in the uniform system of public schools, and aiding and encouraging the establishment of public high schools and rural graded schools.

Increasing annual appropriation for State aid from \$50,000 to \$65,000 for 1907 and 1908.

Chap. 5353 (No. 58), May 22, 1907. (July 1, 1907.)

462. **Florida:** Providing for state aid for public schools, prescribing conditions, and making appropriations therefor.

Granting state aid to every public school maintaining average daily attendance of 80 per cent of the average monthly enrollment sufficient to maintain school two months in addition to regular term, excepting schools receiving state aid under provisions of chap. 5382, acts, 1905.

County superintendent to file reports of attendance with state board of education as a condition for obtaining aid. Appropriating \$60,000 annually for the years 1907 and 1908.

Chap. 5354 (No. 59), May 22, 1907.

463. **Florida:** Providing state aid further than the  $\frac{1}{4}$  mill state school tax, and prescribing duty of county school boards, its chairman and county treasurer, for certain common schools, not otherwise receiving state aid.

Appropriating \$40,000 annually for the school years beginning July 1, 1907 and July 1, 1908, to be apportioned among the several counties upon the basis of taxable value of property. Said money to be expended in lengthening by one month term of schools receiving no state aid other than  $\frac{1}{4}$  mill tax. Surplus to be used only for equipping, repairing, and furnishing such schools. Funds to be paid out only upon affidavit of chairman of county school board that money will be used for no purposes other than those specified in act.

Chap. 5357 (No. 62), June 3, 1907.

464. **Georgia:** Amending act No. 479, p. 65, Acts, 1903, relative to securing to the several counties of the State the public school fund to which they are legally entitled.

Providing for apportionment of the public school fund whenever new counties are created.

Act No. 489, p. 117, Aug. 18, 1906.

465. **Kentucky:** Amending sec. 4375, Statutes, 1903, relative to apportionment of the school fund.

Minor amendment concerning use of excess of apportionment by school districts.

Chap. 71, Mar. 19, 1908.

466. **Maine:** Amending secs. 2-4, chap. 206, Public Laws, 1897 (secs. 41-43, chap. 15, Revised Statutes, 1903), relative to district superintendents of schools and union of towns for school purposes.

Requiring joint school committees to certify to state superintendent of schools as well as to the treasurers of the respective towns the amounts apportioned for payment by the several towns. Omitting provision regarding proportional vote in selection of superintendent of schools.

State aid for supervision increased from one-half to two-thirds of the salary of the superintendent of schools. Payment to be made direct to superintendent instead of to towns. Maximum aid increased from \$750 to \$800.

Adding provision that union of towns shall continue three years unless dissolved by a two-thirds vote of the joint committee.

Chap. 101, Mar. 22, 1907.

467. **Maryland:** See enactment No. 1141.

- 467a. **Maryland:** Paying to the school commissioners of Garrett County a sum of money out of the State school tax.

Special assistance of \$4,000 per annum for two years to enable minimum school term of seven and one-half months.

Chap. 352, p. 847, Apr. 8, 1908.

466. **Minnesota:** Providing for state aid for establishment of consolidated rural schools.

*Teacher and assistant.*—Sec. 1. From any moneys hereafter appropriated from the state treasury to carry out the provisions of this act to be distributed to the first fifty consolidated rural schools established, equipped and conducted so as to meet the following named conditions, to wit:

"(a) Said consolidated rural school district shall contain not less than sixteen nor more than thirty-six square miles of territory.

"(b) There shall be a continuous tract of 10 acres of land secured as the property of the district, upon which there shall be erected a substantial building containing not less than four rooms, including one practice room.

"(c) There shall be employed a principal teacher, who is qualified to teach the elements of agriculture as determined by such tests as shall be required by the state superintendent of public instruction, in addition to the requirements for the teacher of a state graded school. There shall also be employed at least one assistant teacher who shall be qualified to teach home economics, as determined by such tests as shall be prescribed by the state superintendent of public instruction, in addition to the requirements for an assistant teacher in a state graded school. Such other assistants shall be employed as are necessary to properly instruct the pupils in the school.

"(d) Adequate provisions for conveying the pupils to and from said school shall be provided by said district.

"(e) Said lands shall be properly divided into areas for playgrounds, for the planting of trees, crops, and ornamental plants, and shall be so used and managed as to best serve as a means of instructing the pupils of said schools in farming and home making, and shall be under the immediate management of the principal, with such supervision as may be given by the county superintendent of schools and the state superintendent of public instruction.

"(f) The said schoolhouse shall be outside of any incorporated village or city.

*Superintendent to certify.*—Sec. 2. No money shall be paid under the provisions of this act until the state superintendent, after due examination, shall certify that the conditions of the act have been fully complied with.

*Limitations.*—Sec. 3. The aid provided by this act shall be granted to not more than one school district in any one county.

Sec. 4. This act shall take effect and be in force from and after its passage."

Chap. 304, Apr. 22, 1907.

469. **Nebraska:** Providing at least seven months of school in the first eight grades for all youth of the State whose parents or guardians live in school districts whose funds are not sufficient to maintain school for seven months.

Providing for annual state aid not to exceed \$120 to be applied to payment of teachers' wages. Maximum local tax must be levied. Prescribing procedure for awarding aid. Appropriating \$50,000.

Chap. 119, Apr. 10, 1907.

470. **Nevada:** See enactment No. 29.

471. **New Hampshire:** Appropriating an additional sum of money to aid in carrying into effect the provisions of sec. 3, chap. 77, Laws, 1890 (sec. 27, chap. 89, Public Statutes, 1901), entitled "An act to equalize the school privileges of the cities and towns of the State."

Special appropriation of \$10,000 for the year 1908.

Chap. 115, Apr. 4, 1907.

472. **New Jersey:** Supplementing chap. 146, Laws, 1906, as supplementing chap. 1, Laws, 1903 (sp. sess.), relative to distribution of school moneys.

Providing for distribution by state comptroller of taxes not paid in 1907, by reason of litigation on part of certain railroad companies. Such



moneys to be used for support and maintenance of public schools for year ending June 30, 1909.

Chap. 267, Apr. 14, 1908.

473. **New York:** Amending sec. 12, art. 1, tit. 2, chap. 556, Laws, 1894 (consolidated school law), as amended by sec. 1, chap. 106, Laws, 1904, relative to the apportionment and distribution of state and other school moneys.

Chap. 365, May 19, 1908.

474. **North Dakota:** *See enactment No. 961.*

475. **North Dakota:** Amending sec. 847, Revised Codes, 1905, relative to school districts entitled to tuition fund.

Empowering county superintendent to withhold apportionment of state and county school moneys from districts failing to make census and other annual reports; also from districts other than new districts failing to maintain school for six school months. Withholding funds mandatory with reference to schools failing to maintain school for four months.

Sec. 6, chap. 95, Mar. 19, 1907.

476. **Ohio:** Appropriating \$45,000 for assistance of weak school districts.

In accordance with provision of act of April 2, 1906.

H. B. 1302, p. 523, May 9, 1908.

477. **Oklahoma:** Amending sec. 175, art. 13, chap. 74, Wilson's Revised Annotated Statutes, 1903, relative to the apportionment of school fund.

Extending time for making apportionment thirty days.

Chap. 76, S. B. 141, p. 667, Jan. 17, 1908.

478. **Oklahoma:** Repealing chap. 76 (S. B. 141, p. 667), Laws, 1907-8, and providing for apportionment of income of state school fund and annual taxes collected by the State for support of the public schools, to counties of the State, and for apportionment of the federal appropriation.

Chap. 76, S. B. 259, p. 696, Mar. 21, 1908.

479. **Oregon:** Amending sec. 3371, Bellinger and Cotton's Annotated Codes and Statutes, 1901, relative to districts not entitled to school fund.

Providing that districts must report to county superintendent within fifteen days after annual meeting, and providing also that school must be taught at least four months in each year (formerly three).

Chap. 90, Feb. 23, 1907.

480. **Pennsylvania:** Amending secs. 3, 5, 6, No. 215, Laws, 1897, providing a more just and equitable method of distributing school appropriation to common schools, and specifying duties of officers in connection therewith.

Changing time of enumeration and enrollment. Adding provision for enumeration of taxables and enrollment of school children in cities of the first and second classes by officers appointed by the boards of education, and for distribution of school funds to said cities on the basis of such list of taxables.

Act No. 38, Apr. 4, 1907.

481. **Pennsylvania:** Authorizing and requiring the superintendent of public instruction to use the return of the number of children between the ages of 6 and 16 years in the several school districts in each county, now required to be made by the county commissioners to the superintendent of public instruction, as the basis for distribution of one-third of the state appropriation to schools.

Act No. 144, May 8, 1907.

482. **Tennessee:** Repealing chap. 105, Acts, 1903, and chap. 213, Acts, 1905, relative to disposition of the surplus remaining in the state treasury at the end of each year by appropriating it to use for scholastic purposes. Providing for appropriation of money for public schools of the State, to be estimated on a per capita basis and distributed to the several counties in proportion to their scholastic population, and appropriating a fixed sum annually for the purpose of equalizing the length of the school terms in the several counties, and providing for the distribution of the same.

Chap. 537, Apr. 15, 1907.

483. **Tennessee (1905):** Prior to 1873 the legislature incorporated the city of Knoxville, with express power to establish and regulate public schools. Acts, 1873, p. 39, chap. 25, entitled "An act to establish and maintain a uniform system of public schools," provided that the public school system should be administered by the state superintendent, county superintendents, and district school visitors; and sec. 51, (p. 50) enacted that none of the provisions of the act should be construed to interfere with the schools or systems already established, but that they should receive their pro rata shares of moneys raised under the statute according to their scholastic population. Acts, 1885 (ex. sess.), p. 48, chap. 8, entitled "An act to reduce the acts incorporating the city of Knoxville and amendments to one act," recognized the existence of the Knoxville schools by secs. 63, 64 (p. 68), wherein it was provided that the mayor and aldermen should elect five citizens, who should constitute a board of education. Under authority of such sections and ordinances passed pursuant thereto the board of education was put in charge of the Knoxville schools and the board appointed enumerators from time to time to take a census of the scholastic population. Held that, such enumerators having made false reports as to the scholastic population whereby the city of Knoxville and its schools received moneys in excess of the amount to which they were entitled, the State was entitled to recover the moneys so received and expended by the city, the board of education and the enumerators having been the agents of the city.—*State v. City of Knoxville*, 90 S. W., 289; 115 Tenn., 175.

484. **Utah:** Amending chap. 121, Laws, 1905, relative to revenue for common school districts where the revenue from the state, county, and district school taxes is insufficient.

Changing dates for making reports. Prohibiting employment of additional teachers in added districts without recommendation of county superintendent and approval of state superintendent. Increasing appropriation from \$6,000 to \$8,000.

Chap. 24, Mar. 11, 1907.

485. **Utah:** Amending sec. 1775, Revised Statutes, 1898, relative to apportionment of the school fund.

Abstracts of apportionment to be furnished to the treasurer of the board of education in cities of the first and second classes (formerly city superintendent).

Chap. 45, Mar. 14, 1907.

486. **Vermont:** Promoting the centralization of small schools, and equalizing school advantages; also amending sec. 763, Public Statutes, 1894, relative to definition of "legal school."

"Sec. 1. A school performing the work prescribed in a nine years' course of study, or part thereof, prepared by the superintendent of education for ungraded schools, shall be considered an elementary school."

"Sec. 2. The sum of twenty thousand dollars is hereby set aside in the state treasury for the purpose of aiding towns which have furnished, during the preceding school year, transportation and board for their resident pupils in attendance upon the elementary schools. A board of

division, composed of the governor, state treasurer and superintendent of education, shall, on or before the first day of July annually, apportion the sum herein provided among the various towns which have furnished such transportation and board, and which have raised by taxation and expended fifty per cent, or more, on their respective grand lists for school purposes, not including interest on the United States deposit fund, the state school tax and money for new schoolhouses, in the following ratio: To towns having raised and expended fifty per cent and more, one share per dollar expended for transportation and board; to towns having raised and expended sixty per cent and more, one and one-half shares; and to towns having raised and expended seventy per cent and more, two shares. Upon the completion of the apportionment the board of division shall forthwith transmit the same to the state treasurer, who shall, on or before the tenth day of July annually, pay the various towns in the State according to the portion assigned by the board of division.

"Sec. 3. On or before the second Tuesday of April, annually, the board of school directors shall furnish the town clerk, on a blank furnished said board by the superintendent of education, a sworn statement of the actual expenditure by said board for transportation and board of resident pupils in attendance upon the elementary schools, and the town clerk shall, upon a blank furnished him by the superintendent of education, certify to said superintendent on or before the first day of June, annually, the sum expended by the board of school directors, for transportation and board of resident pupils, and the per cent actually raised and expended for school purposes, not including interest on United States deposit fund, state school tax and money expended for new school buildings; and no town shall be entitled to any portion of the sum herein set aside for transportation and board unless such certificate is made as required.

"Sec. 4. Section 763 of the Vermont statutes is hereby amended so as to read as follows, viz:

"Section 763. A legal school for the purposes of this chapter shall be one which, during the preceding school year, has been maintained for at least twenty-eight weeks, during which time the average daily attendance of pupils has been not less than six; and which has been taught by a duly qualified teacher, whose register has been kept and returned as required by law.

"Sec. 5. This act shall take effect April 1, 1907."

No. 53, Nov. 22, 1906. (Apr. 1, 1907.)

487. **Virginia:** Amending and reenacting sec. 1520 (1521), Code, 1904, relative to disposal of unexpended school funds.

Unexpended funds to go to general fund for redistribution, unless otherwise directed by state board of education.

Chap. 309 (In part), Mar. 14, 1908.

488. **Virginia:** Amending and reenacting sec. 1507, Code, 1904, relative to approximate apportionment and disbursement of state funds.

Modifying conditions of payment. Providing for semiannual instead of annual distribution.

Chap. 330, Mar. 14, 1908.

489. **West Virginia:** Regulating rate and manner of laying levies for taxation in counties, magisterial and school and independent school districts, and municipal corporations, and providing penalties for illegal expenditure of public moneys, incurring of illegal obligations, and laying of illegal levies by any tax-levying body, and for the distribution of a portion of the school fund.

Levy by boards of education for building fund limited to 15 cents for 1908 and to 12½ cents thereafter. Teacher's fund levy limited to 25 cents. Cities of less than 10,000 population may levy tax of 10 cents for high school. Additional tax for payment of bonds.

When maximum local levy for teachers' fund is insufficient to maintain schools for six months, at the minimum salary fixed by law, State to make up deficiency. Fifty thousand dollars to be set aside by state

superintendent for distribution. Prescribing conditions for payment of more than minimum salary to teachers. (Sec. 3.)

Chap. 9, Feb. 26, 1908.

490. Wisconsin: See enactment No. 1020.

491. Wisconsin: Amending sec. 10, chap. 433, Laws, 1901, as amended by chap. 332, Laws, 1905, and making said section 496c, of the Statutes, 1898, relative to the amount of state aid for graded schools.

Increasing annual state aid to graded schools of the second class from \$100 to \$200.

Increasing maximum annual state aid to all graded schools from \$80,000 to \$120,000.

Chap. 375, June 24, 1907.

492. Wisconsin: Creating secs. 500f to 500m, inclusive, Statutes, 1898, relative to betterment of rural schools, and making an appropriation therefor.

"Sec. 500f. Every school district which shall have maintained a school for eight months the previous year, supplied needful apparatus and text-books, and kept the schoolhouse and outbuildings in proper condition and repair, shall, for the purposes of this act, be deemed to have maintained a rural school of the second class.

"Sec. 500g. Every school district not composed wholly or in part of an incorporated village or city, nor containing a state graded school, which shall have maintained a school for eight months the previous year, provided a suitable school building and outbuildings, needful apparatus, supplementary readers, and installed an adequate system of ventilation, and done efficient work, shall, for the purposes of this act, be deemed to have maintained a rural school of the first class.

"Sec. 500h. Any district maintaining a rural school of the second class shall be entitled to a share in all state and county school moneys. Any district maintaining a rural school of the first class shall be entitled, in addition to the moneys specified for rural schools of the second class, to special state aid to the amount of fifty dollars per year for three years to be paid from the state treasury.

"Sec. 500i. The state superintendent shall inform the county and district superintendents as to what shall be considered needful apparatus and proper equipment and an improved system of ventilation for rural schools; and in case of disagreement between the school district and the county or district superintendents as to whether a school has the proper equipment, his judgment shall be final.

"Sec. 500j. Any school district which desires special state aid as provided in section 500h of this act, shall make out an application in writing to the county or district superintendent on a blank furnished by him setting forth the condition of the buildings, the amount and nature of the apparatus in the school and a description of the system of ventilation used or in use. If a defect in the building or ventilating system or a deficiency in apparatus is in process of repair, the county superintendent may consider it, for the purposes of this application, as having been completed; subsequent neglect, however, to complete such repairs or to make such purchases as the board have previously certified to be in process of making, shall be ground on which the county or state superintendent may revoke the approval of the application.

"Sec. 500k. If the county superintendent shall approve of the application, he shall endorse the same and remit it to the state superintendent of public instruction who shall act upon the applications in the order of their reception.

"Sec. 500l. To each district which shall comply with all the provisions of this act, and whose application for aid shall have been approved by him, the state superintendent shall apportion the sum of fifty dollars which shall be paid in the same manner as other forms of special state aid are now paid.

"Sec. 500m. To carry out the provisions of this act there is hereby appropriated annually out of the moneys assessed and collected under the provisions of chapter 313, laws of 1903, amending section 1072a of the statutes of 1898, a sum sufficient to meet all the approved claims coming under the provisions of this act."

Chap. 600, July 12, 1907.

## (f) Special State Aid for Secondary Education.

Adequate provision for elementary schools is rightly accounted of first importance in the educational economy of the state and city or school districts. More and more, however, secondary or high schools are coming to be regarded as essential parts of a unified state system. The encouragement and assistance for the growth of these schools afforded directly by the State have been among the interesting educational phenomena of the last decade or two. In practically all the States in which notable progress in public education has been made, some form of special state aid for high schools has been established. The enactments classified under this head are indicative of no new tendency; on the contrary, they bear evidence of the continued special interest evinced by the States for the care of this particular portion of their educational systems. With but one or two evident exceptions, each one of the enactments of the following group is worthy of special mention. Any comparative estimate, however, would give special attention to the legislative activities in the Southern States for the extension and betterment of the opportunities for secondary education:

493. **Alabama:** See enactment No. 1215.

494. **Maine:** Amending sec. 4, chap. 148, acts, 1901 (sec. 79, chap. 15, Revised Statutes, 1903), relative to time of incorporation of academies receiving state aid.

Date of incorporation, as a condition for state aid, extended from Feb. 26, 1901, to May 1, 1907.

Chap. 91, Mar. 20, 1907.

495. **Maine:** Amending secs. 1 and 5, chap. 148, acts, 1901 (secs. 76 and 80, chap. 15, Revised Statutes, 1903), relative to state aid for academies.

Removing requirement of attendance by nonresident pupils as a condition for state aid. Permitting average daily attendance to be based upon five years next preceding.

Chap. 102, Mar. 22, 1907.

496. **Maryland:** Adding secs. 122A-122D, Public General Laws, 1904, relative to state aid for the inauguration of commercial courses in certain approved high schools.

Annual state aid of \$1,000 to each approved school. Conditions. Special provisions concerning certain high schools in Baltimore.

Chap. 635, p. 227, Apr. 6, 1908. (Aug. 1, 1908.)

497. **Massachusetts:** Supplementing sec. 1, chap. 200, acts, 1900, as amending chap. 433, acts, 1902, as amending sec. 3, chap. 42, Revised Laws, 1902, relative to state aid for high schools.

Relating to special annual state aid of \$500 to towns of less than 500 families maintaining a high school having at least two teachers. No town the valuation of which averages a larger sum for each pupil in the average membership of its public schools than the corresponding average for the Commonwealth to receive aid. No school to receive aid unless approved by state board of education.

Chap. 427, Apr. 21, 1908.

498. **Mississippi:** See enactment No. 1297.

499. **North Carolina:** See enactment No. 148.



500\*. **North Dakota:** Amending secs. 1034, 1035, and 1036, Revised Codes, 1905, relative to high school board, and to state aid to high schools.

Permitting high school board to designate some person to make inspections. Increasing annual aid to three-year high schools from \$500 to \$600, and granting annual aid of \$300 to two-year high schools. Providing that no more than 40 per cent of annual appropriation may be used for libraries and equipment. Increasing maximum amount of annual aid from \$25,000 to \$45,000, and the number of aided schools in each county from three to five.

Chap. 99, Mar. 4, 1907.

501. **South Carolina:** See enactment No. 1261.

502. **Vermont:** Amending sec. 3, act No. 37, acts, 1904, relative to high schools. Section rewritten with several minor amendments.

Provision added excluding interest on United States deposit fund and expenditures for new buildings from amount raised by local taxation as basis for state aid.

Sec. 1, act No. 50, Dec. 19, 1906. (Apr. 1, 1907.)

503. **Virginia:** See enactment No. 107.

504. **West Virginia:** See enactment No. 672.

505. **Wisconsin:** See enactment No. 1181.

506. **Wisconsin:** Amending sec. 496, Statutes, 1898, as amended by chap. 214, Laws, 1899, as amended by chap. 345, Laws, 1901, relative to state aid for free high schools.

Increasing required length of annual school session from three to eight months.

Authorizing state superintendent to withhold state aid under certain conditions—failure of school to maintain approved standard of instruction, to provide suitable and sanitary buildings and grounds, or to furnish adequate equipment.

Chap. 527, July 9, 1907.

507. **Wisconsin:** Amending sec. 491b, Statutes, 1898, as amended by chap. 214, Laws, 1899, as amended by chap. 345, Laws, 1901, relative to state aid for free high schools.

Increasing from \$25,000 to \$50,000 the maximum annual limit of such state aid.

Chap. 571, July 11, 1907. (July 13, 1907.)

### C. LOCAL (COUNTY, DISTRICT, MUNICIPAL) FINANCE AND SUPPORT.

#### (a) General.

The enactments relating generally to local school finance are mostly concerned with the minor details and management of educational funds. There is a continuation of the tendency to require more careful auditing of accounts and a greater publicity of the local financial affairs of the public schools. The Louisiana measure (515), making the parish superintendent of schools treasurer of school funds in place

of the parish treasurer, is regarded in that state as being of very considerable importance to the educational interests of the parishes.

508. **California:** Amending sec. 1543, Political Code, 1906, relative to general duties of county superintendents.

Providing for the transferring of funds of lapsed school districts to the district into which they are merged.

Chap. 57, Mar. 1, 1907.

509. **Colorado:** Relating to duties of county treasurers and district boards of school directors. Repeal.

Providing for the cancellation of warrants paid for quarterly financial reports, and for the preservation of all reports and cancelled orders for a period of six years.

Chap. 218, Apr. 15, 1907.

510. **Connecticut:** Concerning the appraisal of school property of consolidated school districts.

Constituting a committee of appraisement.

Chap. 14, Mar. 27, 1907.

511. **Connecticut:** Amending chap. 14, acts, 1907, concerning the appraisal of school property of consolidated school districts.

Extending to towns already consolidated the provisions for appraisement.

Chap. 93, May 27, 1907.

512. **Indiana:** Amending chap. 204, Laws, 1901, relative to the transfer of children from one school corporation to another and the price of tuition.

Previous method of direct payment by school corporations replaced through equalization of tuition fund by county auditor.

Chap. 189, Mar. 9, 1907.

513. **Indiana:** Authorizing transfer and use of certain funds collected for specific purposes, which purposes have been abandoned.

Authorizing township trustee of township collecting fund for constructing a school building to transfer such fund to township fund.

Chap. 200, Mar. 9, 1907.

- 515\*. **Louisiana:** Amending sec. 65, act No. 214, acts, 1902, relative to the treasurer of parish school funds.

Making superintendent of public schools of parish treasurer of fund in place of parish treasurer. No compensation as treasurer. Provisions for bond.

Act No. 17, Dec. 2, 1907. (Feb. 1, 1908.)

516. **Louisiana:** Fixing the compensation of tax assessors of each parish.

Four per cent of first \$50,000; 2 per cent of second \$50,000; 1 per cent of over \$100,000; maximum of 1 per cent on special school taxes.

Act No. 22, Dec. 3, 1907. (Jan. 1, 1908.)

517. **Michigan:** Amending sec. 6, act No. 48, Laws, 1901, providing for a tax upon dogs, and creating a fund for the payment of certain damages for sheep killed or wounded by them in certain cases.

Authorizing township board or city council to retain not to exceed \$300 of said fund; balance to be apportioned to the several school districts.

Act No. 43, Apr. 11, 1907.

518. **Michigan:** Amending sec. 25, chap. 3, act No. 164, acts, 1881 (sec. 4001 Compiled Laws, 1897), relative to duties of assessor.

Substituting "treasurer" for "assessor," and prescribing requirements for surety bond. Providing for deposit and care of school moneys in excess of \$3,000.

Sec. 1, pp. 112-113, act No. 91, May 15, 1907.

519. **Michigan:** Amending sec. 6, act No. 48, Laws, 1901, as amended by act No. 43, acts, 1907, providing for the payment of certain damages ~~for~~ sheep killed by dogs or wounded by them in certain cases.

Providing for procedure in case of defect in fund.

Act No. 331, June 28, 1907.

520. **Minnesota:** Relating to the organization of school districts.

Providing for the distribution of moneys, funds, and credits in cases of the formation of new districts, either by change of boundary, division, or union.

Chap. 109, Apr. 5, 1907.

521. **Minnesota:** Providing that officers of school districts may designate depositories for school district moneys, and requiring the deposit of school district moneys in such depositories, and exempting school district treasurers from liability for such deposits.

Chap. 133, Apr. 9, 1907.

522. **Minnesota:** Permitting investment of the sinking funds of school districts in certain securities, and relieving the treasurers of such districts and the sureties upon their official bonds from liability for any losses incurred by reason of such investments.

Permitting investments in state bonds, and in bonds of any county, school district, city, town, or village of the State.

Chap. 354, Apr. 23, 1907.

523. **Missouri:** Repealing, and reenacting with amendments, sec. 9850, art. 1, chap. 154, Revised Statutes, 1899, relative to settlements of county or township treasurers.

Sundry minor amendments concerning procedure of settlement. County or township treasurer to make detailed financial statement to school district clerks.

H. B. No. 218, page 423, Mar. 20, 1907.

524. **New Jersey:** Providing for recovery of money, funds, or other property wrongfully converted, disposed of, or misappropriated, or damage or other compensation for wrongfully converting, disposing of, or misappropriating money, funds, or other property belonging to townships and school districts.

Prescribing procedure.

Chap. 162, Apr. 10, 1908.

525. **New Jersey:** Regulating and providing for government of cities.

A general charter, sec. 24, par. VI, authorizes tax for the support of public schools and for erecting and maintaining public schoolhouses: "Provided, however, That the sum to be raised for school purposes shall be first fixed and determined by the board of school estimates as provided by law, and not by the board of estimates appointed under this act."

Chap. 179, Apr. 11, 1908.

526. **New Jersey:** Amending sec. 187, chap. 1, Laws, 1903 (sp. sess.), relative to custodian of school moneys.

Providing for the appointment of a custodian in joint school districts, and for a collector in certain instances.

Chap. 228, Apr. 13, 1908.

527. **North Dakota:** Amending sec. 1016, Revised Codes, 1905, relative to reports by city treasurer of receipts and disbursements of moneys of independent school districts.

Chap. 222, Mar. 14, 1907.

528. **Ohio:** Supplementing sec. 4042, Revised Statutes (1905), authorizing boards of education of districts having depositories for school moneys to dispense with a treasurer of such funds.  
Clerk to perform duties of treasurer in such cases.  
H. B. 830, p. 205, Apr. 27, 1908.
529. **South Dakota:** Amending secs. 1, 3, and 5, chap. 156, Laws, 1905, relative to the investment of sinking funds of school districts in certain securities.  
Chap. 101, Mar. 6, 1907.
530. **Texas:** Amending sec. 94, chap. 124, Acts, 1905, relative to apportionment of school funds among the different school districts in each county.  
Removing distinctions between white and colored school districts as such.  
Chap. 106, Apr. 16, 1907.
531. **Vermont:** Repealing sec. 851, Statutes, 1891, relative to minimum expenditures of district school moneys.  
See act No. 60, Dec. 18, 1906. (Enactment No. 357.)  
Act. No. 46, Dec. 19, 1906.
532. **Virginia:** Amending and reenacting sec. 1449, Code, 1904, relative to the duties of county treasurer as to school funds, and his compensation.  
Including funds under control of district school boards.  
Chap. 309 (in part), Mar. 14, 1908.
533. **Virginia:** Amending and reenacting sec. 1517, Code, 1904, relative to auditing and paying claims against school districts.  
Providing for payment of treasurers' commissions.  
Chap. 325, Mar. 14, 1908.
534. **Virginia:** Amending in a minor manner and reenacting sec. 1509, Code, 1904, relative to payment of warrants upon state school funds by city or county treasurer.  
Chap. 329, Mar. 14, 1908.
535. **Washington:** Amending sec. 95, chap. 118, Laws, 1897 (Code of Public Instruction), relative to sale of school property in cities having a population of 10,000 and over.  
Authorizing sale without vote of electors, under certain conditions.  
Chap. 143, Mar. 13, 1907.
536. **Washington:** Amending sec. 88, chap. 118, Laws, 1897 (Code of Public Instruction), relative to treasurers of school districts.  
Providing, in certain instances, for the issuance of one general certificate authorizing county treasurer to pay warrants for monthly bills of school districts.  
Sec. 8, chap. 240, Mar. 18, 1907.
537. **Wyoming:** Providing for regulating the deposit and safekeeping of all public money belonging to the State, or to any county, city, town, school district or other subdivision therein; creating boards of deposit; prohibiting the making of profit out of public funds by any state, county, municipal, or other officer; prescribing penalties and appropriating money.  
Chap. 30, Feb. 15, 1907.

(b) Local (County, District, Municipal) Bonds and Indebtedness.

The volume of legislation relating to the creation and payment of bonded and other forms of indebtedness incurred for educational purposes for local units is indicative of the recognized importance of

this element of support and of the increasing pressure developed by reason of the constantly growing demands, both qualitative and quantitative, made upon the public schools. Exclusive of the large number of special and local acts dealing with this subject, the following list contains over 70 legislative measures and judicial decisions of greater or less importance. Aside from those legislative enactments which undoubtedly arose from conditions of administrative expediency, the following seem worthy of special attention: Massachusetts (568); Minnesota (570), (571); New York (581); South Carolina (591), (592); Tennessee (594); Texas (596), and West Virginia (606).

538. **Arizona:** Amending par. 2134 (sec. 65, chap. 6, tit. 19), Revised Statutes, 1901, relative to the use of territorial and county apportionment of school moneys.

Authorizing the expenditure of unexpended balances for repairing and improving school property and purchasing school furniture; prohibiting use of, for payment of interest or principal of bonded debts or for purchase of land for school purposes.

Sec. 11, chap. 67, Mar. 21, 1907. (Jan. 1, 1907.)

D 539. **Arkansas** (1906): The act of 1905 (Acts, 1905, p. 154), authorizing the special school district of Little Rock to borrow money and mortgage the real property of the district therefor, empowers the district to mortgage all or part of the real property of the district as the school board may deem advisable. *Schmitz v. Special School Dist. of Little Rock*, 95 S. W. 438.

D 540. **Arkansas** (1906): A special school district is not within the constitutional provisions declaring that no county, city, town, or municipality shall issue any interest-bearing evidence of indebtedness.—*Schmitz v. Special School Dist. of City of Little Rock*, 95 S. W. 438.

541. **California:** Adding sec. 1888a to Political Code, 1906, relative to the levy of taxes for the payment of school district bonds.

Providing for proportional liability of indebtedness in cases of merged, annexed, new, and joint districts.

Chap. 508, Mar. 23, 1907.

D 542. **California** (1905): Constitution, art. 11, sec. 16, provides that city charters adopted by authority of the constitution shall be subject to and controlled by general laws, except in municipal affairs. Art. 4, sec. 25, subdiv. 27, prohibits the passage of local laws for the management of common schools. Art. 9, sec. 5, requires the legislature to provide for a system of common schools. Pol. Code, sec. 1576, provides, in effect, that a city, together with territory annexed thereto for school purposes, shall constitute a separate school district. Secs. 1880-1887 authorize the board of trustees of a school district to issue bonds to raise money for purchasing school sites or building and improving school houses, etc., and prescribe the procedure for the issuance of such bonds. *Held*, that while the city may, when authorized by its charter, issue municipal bonds for school purposes, yet its power so to do is not exclusive, and the school district, embracing the city and territory attached thereto for school purposes, may, independently of the city, issue district school bonds in the manner prescribed by the Political Code.—*Los Angeles City School Dist. v. Longden*, 83 P. 246; *Los Angeles City High School Dist. v. Same*, *Id.*, 248.

543. **Connecticut:** Authorizing the Northwest School District of Hartford to issue bonds.

Permitting issuance not to exceed \$200,000 at 4 per cent interest for fifty years, for payment of debts.

Act No. 59, Special Acts, Mar. 24, 1907.



544. **Connecticut:** Amending sec. 1, chap. 137, Acts, 1905, concerning payment of debts of joint school districts.

Extending provisions to school districts which have already become indebted.

Chap. 80, May 21, 1907.

545. **Connecticut:** Authorizing the Washington School District of Hartford to issue bonds.

Permitting issuance not to exceed \$100,000, at no more than 4 per cent interest, for no more than twenty-five years.

Act No. 82, Special Acts, Apr. 11, 1907.

546. **Connecticut:** Authorizing the Arsepal School District of Hartford to issue bonds.

Permitting maximum issuance of \$200,000, interest, 4 per cent; time, fifty years.

Act No. 135, Special Acts, May 1, 1907.

547. **Connecticut:** Authorizing the city of New London to issue school bonds.

Permitting maximum issue of \$175,000; interest, 4 per cent; time, thirty years.

Act No. 194, Special Acts, May 11, 1907.

548. **Delaware:** Authorizing and empowering the board of public education in Wilmington to issue bonds for the purpose of erecting, furnishing, and equipping new schoolhouses.

In reality an amendment to chap. 92, Laws, 1905, providing for the organization and control of the public schools of Wilmington, so as to permit the board of education to borrow not to exceed \$20,000 in any one year for building purposes.

Chap. 93, Apr. 4, 1907.

549. **Delaware:** Prescribing the method by which school districts may borrow money for the purpose of building and furnishing or improving and enlarging schoolhouses.

Prescribing procedure of special election called upon petition of ten or more freehold taxables, providing for issuance and redemption of bonds.

Chap. 122, Apr. 4, 1907.

550. **Delaware:** Repealing and reenacting secs. 1 and 2, chap. 93, Laws, 1905, authorizing and empowering "The Board of Public Education in Wilmington" to issue bonds for the purpose of erecting, furnishing, and equipping new schoolhouses in the city of Wilmington.

Increasing amount of immediate issue to \$100,000, and providing for method of payment.

Chap. 126, Mar. 4, 1907.

D 551. **Georgia (1908):** Act of Dec. 18, 1900 (acts, 1900, p. 105), established the public-school system in the town of R., giving exclusive management to a board of school commissioners. The act provided that the funds supporting the school should be derived from four sources, one of which was a tax not to exceed one-half of one per cent by the council of the town, on recommendation of the school board. Such board recommended the levy of a tax of one-half of one per cent for the maintenance of a school for the scholastic year. The council refused to levy the tax. Act of Aug. 27, 1905 (acts, 1905, p. 514), repealed the former act. Held not to have a retrospective effect so as to impair the obligation of a contract made by virtue of the repealed law. *Dennington v. Town of Roberts*, 61 S. E., 20.

D 552. **Illinois (1904):** Since under the direct provisions of constitution, art. 9, sec. 12, no school district has power to become indebted for any purpose to an amount, including its existing indebtedness, in the aggregate exceeding 5 per centum on the value of the taxable property therein. Laws, 1901, p. 200, amending the school law (Laws, 1899, p. 277), secs. 41,

12, providing that any school district having a population of at least 2,000 inhabitants is authorized to establish and maintain a high school, and authorizing the election of a board of education therefor, are ineffectual to authorize a district to incur a debt beyond 5 per centum of the taxable property in a school district.—*Russell v. High School Board of Education of School Dist. No. 131*, 72 N. E. 441; 212 Ill. 327.

553. **Illinois** (1906): Constitution, art. 9, sec. 12, provides that no municipal corporation shall be allowed to become indebted to exceed 5 per cent of the value of the taxable property. Hurd's Rev. St., 1905, p. 1823, chap. 122, sec. 262, provides that city authorities may levy for school purposes a tax "not to exceed two and one-half per cent for building purposes." *Held*, that a city can levy a 2½ per cent tax to complete a school building for which it is already indebted to the constitutional limit.—*People v. Chicago & T. R. Co.*, 79 N. E. 151; 223 Ill. 448.

554. **Indiana**: Transferring to the special school revenue of school towns taxes in the possession of but which have been illegally levied by boards of school trustees of incorporated towns for the payment of bonds illegally issued by such boards for money with which to repair and improve school buildings.

Chap. 55, Feb. 25, 1907.

555. **Indiana**: Empowering the board of school trustees in cities of the second class (15,000-100,000) to issue, negotiate, and sell bonds of the school city or corporation (maximum, \$150,000) to procure means to erect school buildings in such school city or corporation, or to pay for the cost of buildings already erected therein, or any other indebtedness of the school city or corporation; to levy and collect special taxes for the payment of such bonds.

Chap. 107, Mar. 5, 1907.

556. **Indiana**: Amending sec. 4, chap. 200, Laws, 1903 (see 5915), Burns' Annotated Statutes, Supplement, 1905), relative to additional bond issues for school purposes.

Chap. 224, Mar. 9, 1907.

557. **Indiana**: Authorizing and empowering boards of trustees of school cities of all cities incorporated under the general laws of this State and boards of trustees of school towns of all incorporated towns of this State to issue bonds for the purpose of funding or refunding their indebtedness, reducing the rate of interest on preexisting obligations, or taking up or canceling bonds, notes, or other obligations already due or which shall hereafter become due, and making it the duty of the board of trustees of such school cities or school towns to levy taxes for the payment of the interest, and authorizing the board of trustees of such school cities and school towns to provide sinking funds for the liquidation of the principal of such bonds.

Chap. 263, Mar. 12, 1907.

558. **Indiana**: Providing for the raising of funds for the purchase of school sites and erection of buildings thereon in incorporated towns having a population of not more than two thousand.

Authorizing board of school trustees, by and with the consent of board of trustees of town, to issue bonds not to exceed \$6,000 in amount; providing for refunding, sale of property, special tax levy, and application of surplus revenue.

Chap. 268, Mar. 12, 1907.

559. **Indiana**: Authorizing the board of school trustees in incorporated towns or cities of a certain population (less than 5,000) to negotiate and sell the bonds of school towns or cities (maximum, \$40,000) to procure

the means with which to erect school buildings, by and with the consent of the board of trustees of any incorporated town or the common council of any city in which such school town or city is located, and authorizing the levy and collection of an additional special school tax and the application of the surplus special school revenue for the payment of such bonds.  
Chap. 285, Mar. 12, 1907.

560. **Iowa:** Repealing chap. 140, Laws, 1906, relative to school district bonds, and enacting a substitute.

Sundry minor amendments concerning procedure for issuance, designation, and redemption.

Chap. 152, Apr. 4, 1907.

561. **Kansas:** Authorizing board of education of the city of Lawrence to increase rate of interest upon certain bond issue.

Applies to bond issue of \$40,000 (Apr. 1907) for the erection of a manual-training high-school building, which bonds can not be sold. Authorizing board of education to increase rate of interest from 4 to 5 per cent. Providing for submission to electors.

Chap. 72, Jan. 24, 1908.

562. **Kansas:** Enabling school districts to issue bonds to pay outstanding warrants.

Applicable to districts having a valid indebtedness exceeding \$5,000. Issuance of refunding bonds not to exceed 10 per cent of assessed valuation of taxable property. Must conform to secs. 517-528, General Statutes, 1901, and sec. 9, chap. 472, Laws, 1905.

Chap. 324, Mar. 5, 1907.

563. **Kansas:** Relating to issue of bonds to erect, furnish, and equip county high-school buildings by counties that have already established county high schools under the provisions of chap. 186, Laws, 1897, as amended by chap. 433, Laws, 1903.

Relating to counties having a population of less than 2,500. Providing for issuance of bonds and prescribing conditions therefor.

Chap. 332, Mar. 12, 1907.

564. **Massachusetts:** Authorizing the city of New Bedford to incur indebtedness for school purposes.

Permitting city of New Bedford, for the purpose of purchasing sites and erecting three new school buildings and an addition to a fourth, to incur indebtedness beyond the limit fixed by law to an amount not exceeding \$225,000.

Chap. 485, Mar. 12, 1907.

565. **Massachusetts:** Authorizing the city of Lynn to incur indebtedness for school purposes.

Permitting the city of Lynn to borrow money to the amount of \$150,000 in excess of the debt limit fixed by law, for the purchase of a site and the erection of a building for the classical high school.

Chap. 192, Mar. 12, 1907.

566. **Massachusetts:** Authorizing the town of Revere to incur indebtedness for a new high school building.

Permitting the town of Revere to borrow money beyond the debt limit fixed by law to an amount not exceeding \$125,000, for the purchase of a site and the erection of a new high school building.

Chap. 230, Mar. 20, 1907.

567. **Massachusetts:** Authorizing the city of Fall River to incur indebtedness for school purposes.

Permitting city of Fall River to incur indebtedness beyond the debt limit fixed by law to an amount not exceeding \$200,000, in order to acquire land for school purposes and to build schoolhouses.

Chap. 338, Apr. 24, 1907.

548. **Massachusetts:** Relative to the construction of schoolhouses in the city of Boston.

Providing for the annual issuance of bonds not exceeding \$1,000,000 for 1907 and 1908 and not exceeding \$500,000 thereafter, for the construction of schoolhouses in the city of Boston. School committee to estimate need of school accommodations and board of schoolhouse commissioners to certify cost.

Chap. 459, May 24, 1907.

549. **Michigan:** Amending sec. 1, chap. 6, act No. 664, acts 1881 (sec. 1717, Compiled Laws, 1897), authorizing school districts to borrow money.

Requiring majority (formerly, two-thirds) vote at district meeting. Providing for estimate by board of education of amount necessary to be borrowed. Substituting for graded limitation of indebtedness a general limitation applicable to all school districts. Special proviso for school districts having one hundred or more children.

Act No. 256, June 27, 1907.

550. **Minnesota:** Authorizing cities having a population of more than 50,000 inhabitants to issue and sell bonds for public high school buildings and sites.

Maximum issue \$800,000. Authorization by city council before January 1, 1910. Excepting such bonds from debt limit. Prescribing term and method of issuance.

Chap. 29, Feb. 27, 1907.

551. **Minnesota:** Authorizing cities having a population of more than 50,000 inhabitants to issue and sell bonds for public graded school buildings and sites.

Maximum issue \$300,000. Authorization by city council before January 1, 1910. Excepting such bonds from debt limit. Prescribing term and method of issuance.

Chap. 21, Feb. 27, 1907.

552. **Minnesota:** Authorizing municipalities to issue bonds to the State of Minnesota.

Municipality to include school districts. Prescribing procedure for issuance.

Chap. 122, Apr. 6, 1907.

553. **Minnesota:** Amending sec. 1327, Revised Laws, 1905, relative to powers and duties of school boards.

Providing for issuance of orders for the payment of indebtedness which can not be paid for want of funds.

Sec. 2, chap. 445, Apr. 25, 1907.

554. **Minnesota (1906):** Gen. Laws, 1905, pp. 93, 94, chaps. 76, 77, legalizing school bonds theretofore voted upon by cities for high schools and graded schools under the provisions of Gen. Laws 1893, p. 333, chap. 204, and acts amendatory thereto, are curative acts, and not special legislation, in conflict with Const. art. 4, secs. 33, 34, because the classification is arbitrary, in that all bonds are not included therein, and the acts are limited to cities wherein at the election a two-thirds majority of the votes of those voting on the proposition was obtained in favor of the bonds, and the cities to which the law applies are those that voted for the issuance of bonds under the law of 1893 as amended. State v. Brown, 106 N. W., 477; 97 Minn., 402.

555. **Montana:** Validating the acts of boards of county commissioners in establishing and locating county free high schools, and of boards of county free high-school trustees in issuing bonds for the erection of high-school buildings.

Chap. 61, Mar. 1, 1907.

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576. **Nebraska:** Repealing and reenacting with amendments, secs. 4, 5, and 6, subdv. 15, chap. 79, Compiled Statutes, 1905 (secs. 11822-11824, Coby's Annotated Statutes, 1903), relative to bonds for school purposes.

Excepting districts having over 150 (previously, 200) school children from 5 per cent limitation. Permitting such districts to issue bonds not to exceed 10 per cent of assessed valuation.

Chap. 130, Apr. 5, 1907.

577. **Nevada:** Enabling the several school districts of the State to issue bonds for the purpose of erecting and furnishing school buildings, or for purchasing ground, or for refunding floating funded debts, and providing for the payment of the principal and interest.

Chap. 59, Mar. 12, 1907.

578. **New Jersey:** Authorizing counties, cities, towns, townships, boroughs, villages, school districts, committees, commissioners, and all other municipalities to fix the rate of interest on bonds hereafter issued pursuant to the authority of any general or special law or laws of the State at not exceeding 5 per cent per annum.

Chap. 19, Mar. 18, 1908.

579. **New Jersey:** Repealing chap. 277, Laws, 1906, as supplementing secs. 103, 104, 105, chap. 1, Laws, 1903 (sp. sess., Oct. 15), relative to bonds issued by consolidated school districts existing previous to the passage of chap. 2, Laws, 1903, establishing a thorough and efficient school system, etc.

Chap. 86, Apr. 17, 1907.

580. **New Jersey:** Authorizing municipalities to borrow money to meet the necessities of public schools.

Special provision to meet needs for March, April, May, and June of 1908.

Chap. 271, Apr. 14, 1908.

581. **New York:** Authorizing the city of Buffalo to issue bonds to the amount of \$600,000 for the purchase of school sites and the erection and enlargement of school buildings.

Chap. 53, May 19, 1908.

582. **New York:** Legalizing certain bonds for high school in the city of Syracuse as authorized by chap. 650, Laws, 1905, as amended by chap. 58, Laws, 1907.

Chap. 592, July 16, 1907.

D583. **North Carolina (1906):** School districts are public quasi corporations, included in the term "municipal corporations" as used in art. 7, sec. 7, of our constitution, and so come within the express provisions of sec. 7, that "no county, city, or other municipal corporation, shall contract any debt, pledge its faith, or loan its credit, etc., nor shall any tax be levied unless by a vote of the qualified voters." And the principle of uniformity is established and required by sec. 9 of this article.—*Smith v. Board of Trustees of Robersonville Graded School*, 53 S. E. 524.

584. **North Dakota:** Amending sec. 912, Revised Codes, 1905, relative to the issuance of school bonds.

Reducing interest rate from 7 to 5 per cent, and fixing maximum limit of issue at 5 per cent of assessed valuation for all districts.

Sec. 9, chap. 95, Mar. 19, 1907.

585. **Oklahoma:** Authorizing boards of education of cities and school districts to issue bonds.

Expenditure for sites and buildings. Limit of indebtedness, 5 per cent of assessed valuation.

Chap. 77, S. B. 458, p. 673, May 29, 1908.



586. **Pennsylvania:** Repealing act No. 225, Laws, 1871, empowering court of common pleas to authorize school directors to borrow money.  
Bonds issued in noncompliance with said act to be valid.  
Act No. 154, May 10, 1907.
587. **Pennsylvania:** Providing for the payment of the premiums on bonds of county, city, borough, school district, and township employees.  
Allowing municipality to pay premium if bond is required to be indorsed by surety company.  
Act No. 173, May 28, 1907.
588. **Pennsylvania:** Supplementing act No. 260, Acts, 1903, relative to the annexation of any city, borough, township, or part of a township, to a contiguous city, and providing for the indebtedness of the same.  
Providing for the preservation of the rights of creditors and lien and for funding the debt of the municipality or school district annexed.  
Act No. 271, June 1, 1907.
589. **Pennsylvania:** Proposing to amend sec. 8, art. 9 of the constitution, allowing counties, cities, boroughs, townships, school districts, or other municipal or incorporated districts to increase their indebtedness.  
Increasing lawful indebtedness from 7 to 10 per cent.  
Jt. Res. No. 2, 1907 (p. 834).
590. **Rhode Island:** Authorizing the city of Pawtucket to issue bonds (\$100,000) for school construction purposes.  
Chap. 1011, Apr. 10, 1908.
- 591 \*. **South Carolina:** Providing for the issuing of bonds in public school districts.  
Act No. 240, p. 522, Feb. 19, 1907.
- 592 \*. **South Carolina:** Exempting from taxation all bonds issued by school districts for erection of school buildings, for equipment, for maintaining public schools, or for paying indebtedness.  
Chap. 473, Feb. 14, 1908.
593. **South Dakota:** Relating to issuance of bonds by boards of education in cities of the first class, and bonds for school districts created by special act.  
Arts. IX and X, chap. 135, Mar. 13, 1907.
594. **Tennessee:** Authorizing incorporated boards of education of public schools in cities and taxing districts of 100,000 inhabitants or over, according to the federal census of 1900, or any future census, to issue bonds for certain school purposes.  
Fixing maximum issue at \$300,000, and providing for payment of interest and for redemption.  
Chap. 41, Feb. 12, 1907.
595. **Texas:** Amending the charter of the city of Dallas and amendatory acts thereto, by adding sec. 22b, confirming, ratifying, and validating certain series of municipal coupon bonds issued by the city of Dallas.  
Among others, bonds issued for high and other school buildings.  
Special Laws, chap. 25, Mar. 16, 1907.
596. **Texas:** Amending sundry sections of the charter of the city of Galveston.  
Authorizing issuance of bonds for the construction, maintenance, and repair of public schoolhouses. (Sec. 7-71b.)  
Special Laws, chap. 68, Apr. 5, 1907.
- D 597. **Texas (1908):** The inherent power of a legislature to pass laws not prohibited by the constitution can not be invoked to render a special act

of the legislature valid, creating an independent school district (Sp. Laws, 1907, p. 139, chap. 8), and transferring a preexisting indebtedness of a municipality included therein to the new district, where the act was passed as a special or local law, contrary to constitution, art. 3, sec. 57, requiring notice of intention to apply for the passage of the act, and could only have been passed under the special power granted in sec. 3, art. 7, of the constitution, providing that the legislature may provide for the formation of school districts within counties of the State by general or special law, without the local notice required in other cases of special legislation, which section did not authorize the transfer of a bonded indebtedness to the new district created; and hence a law passed pursuant thereto, which attempted to transfer such indebtedness, was void.—Cummins v. Gaston, 109 S. W., 476.

598. **Utah:** Amending sec. 35, chap. 107, relative to the bonded indebtedness of taxable property in school districts.

Fixing maximum total indebtedness at 4 per cent of the value of the taxable property.

Chap. 81, Mar. 14, 1907.

599. **Utah:** Amending sec. 1944, Revised Statutes, 1908, relative to issuance, etc., of bonds in city school districts.

Chap. 133, Mar. 23, 1907.

600. **Virginia:** Authorizing county school boards to loan to the district school boards of their respective counties funds belonging to said county school boards derived by gift or devise, taking the obligation of the district school boards for the same.

Maximum loan, \$1,000; to be used for the erection of schoolhouses.

Chap. 223, Mar. 12, 1908.

601. **Washington:** Amending secs. 117, 119, 121, chap. 118, Laws, 1897 (Code of Public Instruction), relative to the issuance of bonds by school districts.

Including joint school districts within operation of act. Decreasing rate of interest on bonds from 10 to 6 per cent. Defining necessary school expenses. Providing for investment of sinking funds; tax levies in joint districts.

Chap. 101, Mar. 11, 1907.

602. **Washington:** Amending sec. 117, chap. 118, Laws, 1897 (Code of Public Instruction), relative to limit of bonded indebtedness of school districts.

Lowering rate of interest from 10 to 6 per cent. Defining necessary school expense.

Sec. 74, chap. 240, Mar. 18, 1907.

603. **Washington:** Amending sec. 120 (Code of Public Instruction), relative to sale of bonds of school districts.

Sec. 9, chap. 240, Mar. 18, 1907.

604. **Washington:** Amending sec. 121 (Code of Public Instruction), relative to payment of bonds.

Providing for investment of sinking fund.

Sec. 10, chap. 240, Mar. 18, 1907.

605. **West Virginia:** Authorizing the board of education of the school district of Wheeling to borrow money and issue bonds for the purchase and construction of property and buildings.

Maximum total issue, 2 per cent of assessed valuation of property. Submission to vote.

Chap. 7, Mar. 3, 1908 (sp. sess.).

606. **West Virginia:** Providing for investment of sinking funds established for the purpose of paying off the bonded indebtedness of any county, district, school district, independent school district, city, town, or village.

Chap. 11, Feb. 21, 1908.

607. **Wisconsin:** Creating secs. 553n and 553o, Statutes, 1898, authorizing any village to bear a part of the cost of county schools of agriculture and domestic economy, and to issue bonds therefor.

Limiting expenditure to one-fifth of the cost of such school.

Chap. 11, Mar. 16, 1907.

608. **Wisconsin:** Amending subdv. 3, sec. 923-11, Statutes, 1898, relative to the power of the common councils of cities under special charters to issue bonds for school purposes.

Authorizing issuance of bonds for site and buildings for parental school.

Chap. 114, May 29, 1907.

609. **Wisconsin:** Legalizing certain bonds heretofore issued by school districts organized under the township system and authorizing issue of bonds by such districts for other purposes.

Chap. 199, June 12, 1907.

610. **Wisconsin:** Amending sec. 261, Statutes, 1898, as amended by chap. 129, Laws, 1899, as amended by chap. 123, Laws, 1901, relative to school district bonds.

Requiring two-thirds of assessed valuation to be on real estate.

Chap. 216, June 14, 1907.

#### (c) Local (County, District, Municipal) Taxation for School Purposes.

As noted in the review of the legislation concerning local taxation for school purposes during 1904-1906, there is a decided tendency on the part of the States to give to local school jurisdictions a considerably wider authority in the provision of adequate support for public schools. This tendency is, in fact, but a part of the larger and more inclusive one which is slowly, but certainly, becoming characteristic of the attitude of the American people toward their public schools: that is, to utilize, in as large manner as is consistent with wise public economy, all of the available means which may properly be directed toward the increase of the material resources available for meeting the educational necessity. The enactments in Arkansas (439), (613), Georgia (618), Indiana (631), Louisiana (636), and Washington (670), are typical of the larger movement represented by this legislation to increase the limit of local taxation for school purposes.

611. **Arizona:** Amending par. 2256, sec. 126, Revised Statutes, 1901, relative to special school district tax.

Adding provisions regarding tax levy for construction, repairing, equipment, etc., of school buildings; for additional school lands; and for water for irrigation.

Chap. 60, Mar. 21, 1907.

612. **Arizona:** Amending par. 2256 (sec. 126, chap. 15, tit. 19), Revised Statutes, 1901, relative to the levying of a special school district tax:

Section modified so as to accord with the new provision regarding minimum length of school term—six months. (See enactment No. 968.)

Sec. 20, chap. 67, Mar. 21, 1907. (July 1, 1907.)

618. **Arkansas:** Amending sec. 7590, Kirby's Digest, 1904, relative to powers of annual school meetings.

Raising maximum limit of local tax levy for school purposes from one-half of 1 per cent to seven-tenths of 1 per cent:

Sec. 2, act No. 189, Apr. 17, 1907.

614. **California:** Amending sec. 1576, Political Code, 1906, relative to formation of school districts, providing for the addition of territory thereto and taxation thereof.

Providing that last assessment roll of county assessor shall be basis of taxation of annexed district.

Chap. 83, Mar. 4, 1907.

615. **Delaware:** Amending sec. 11, chap. 92, Laws, 1904-5, relative to determination and appropriation of school taxes in the city of Wilmington.

Appropriation for general expenses for 1907-8 to be not less than \$188,000 (not to exceed \$182,000 in 1905-6), with annual increase for any succeeding year not to be less than 2 per cent (formerly not to be greater than 1 1/2 per cent). Adding provision that council shall have power to designate what proportion of any appropriation above the minimum shall be used to adjust, equalize, and increase teachers' salaries.

Chap. 125, Mar. 1, 1907.

616. **Delaware:** Directing county treasurer of Newcastle County to pay to "The Board of Public Education in Wilmington" all sums received or to be received from colored school taxes assessed against real estate in the city of Wilmington for the years 1902, 1903, 1904, and 1905, and providing for the distribution of the same.

Chap. 127, Mar. 4, 1907.

- D 617. **Florida (1908):** Under Laws, 1907, p. 3, chap. 5596, the general power is conferred on county commissioners to determine the amount to be raised for all county purposes, and by chap. 5606, p. 84, Laws, 1907, they are required to ascertain and determine the amount to be raised for county purposes, including current expenses, etc., and are authorized to levy a tax of not more than 5 mills on the dollar on the property in the county, and it is further provided that the county commissioners shall levy a tax not to exceed 7 mills nor less than 3 mills on the property in the county for county school purposes. Held not to authorize county commissioners to revise the decision of the county board of public instruction under Gen. Stat., 1906, sec. 347, as to the millage required for the maintenance of the county schools, when it is within the constitutional limits, and the estimates include no illegal items.—*Tomasello v. Board of Public Instruction for Santa Rosa County*, 45 So., 886.

618. **Georgia:** Amending act No. 59, p. 425, acts, 1905, relative to creation and operation of local tax district schools, for levying and collection of local tax by the counties for educational purposes, for laying off of counties in school districts, and for other purposes.

Amending caption of the act so as to provide for its proper enforcement, for laying off of counties into districts of reasonable size, for election of district trustees, whether a local tax is levied and collected or not. Providing also a correct method of assessing and collecting taxes for school purposes in local districts; making corporate property subject to local taxation.

Act No. 549, p. 61, Aug. 21, 1906.

- D 619. **Georgia (1908):** The third and fourth sections of the act approved August 23, 1906 (acts, 1906, pp. 427, 428), providing for the levying and collection of a local tax by school districts laid off in the manner prescribed, are inoperative, inasmuch as the method provided for the assessment of the tax is antagonistic to art. 7, sec. 2, par. 1 of the constitution, because an ad valorem tax is imposed only upon the property of those taxpayers required by law to make return of their property to the county tax receiver, and not upon the property of another class of taxpayers, such as railroad companies, who are required to make returns to the comptroller-general.—*Brown v. Southern Ry. Co.*, 54 S. E., 728.

D 620. *Georgia* (1906) : The act approved August 23, 1905 (acts, 1905, p. 425), entitled "An act to provide for the creation and operation of local tax district schools, for the levying and collection of local tax by counties for educational purposes, for the laying off of counties in school districts, and for other purposes," is not unconstitutional because of the proviso in the second section of the body of the act, whereby incorporated towns operating a public-school system are not, without the consent of the municipal authorities, included in the election held in the county for the purpose of determining whether a school tax shall be levied. The subject-matter of the proviso is germane, and is not at variance with the title of the act.—*Georgia R. and Banking Co. v. Hutchinson*, 54 S. E., 725.

D 621. *Georgia* (1907) : Act of Aug. 23, 1905 (acts, 1905, p. 425), as amended by act of Aug. 21, 1906 (acts, 1906, p. 61), providing for the creation of local tax district schools, is not a violation of the uniformity rule of the constitution as to taxation for the reason that the scheme of taxation as to amount and method of collection is different when taxes are levied and collected for district schools from what it is when collected for county schools.—*Edalgo v. Southern Ry. Co.*, 58 S. E., 846.

622. *Idaho*: Amending sec. 84, H. B. No. 42, Laws, 1899, as amended by sec. 2, S. B. No. 98, Laws, 1903, relative to the powers and duties of boards of school trustees.

Increasing maximum levy of special taxes from 15 to 20 mills.

H. B. No. 201, p. 304, Mar. 13, 1907.

623. *Illinois*: Amending sec. 1, art. 8, acts, 1889, as amended by acts, 1899, p. 350, sec. 202, chap. 122, Hurd's Revised Statutes, relative to taxation for the establishment and maintenance of a system of free schools.

Adding proviso that in cities of less than 100,000 inhabitants the expense of improvement, repair, or benefit of school buildings or property shall be paid from that portion of tax levied for building purposes.

Adding further proviso that no election nor petition is necessary to levy tax for repair or improvement or to pay any special tax or assessment upon the property.

H. B. 186, p. 519, May 20, 1907.

624. *Illinois*: Repealing acts, 1893, p. 176, relative to boards of school inspectors elected under special acts, as amended by p. 292, acts, 1897; and p. 99, Acts, 1895, relative to increasing the number of school inspectors elected under special acts from six to seven members; and repealing and reenacting a substitute, p. 381, acts, 1905, relative to election of boards of inspectors in certain cases.\*

H. B. 394, p. 525, May 25, 1907.

D 625. *Illinois* (1904) : Where taxes have been paid for school purposes without objection or protest, their use for the purposes for which they were levied and designed will not be prevented by any mere technical objections as to the manner in which the levy was made.—*Trustees of Schools v. Board of School Inspectors of City of Peoria*, 115 Ill. App., 479.

D 626. *Illinois* (1906) : Priv. Laws, 1857, p. 219, chap. 11, divides the city of Joliet into school districts, provides for the election of school inspectors, and gives the city council power to levy taxes for school purposes. Hurd's Rev. Stat., 1903, p. 1714, chap. 122, increases the powers of the school inspectors, giving them authority to employ teachers and to fix the amount of their compensation, and to build or purchase buildings, etc., but provides that all moneys necessary for school purposes shall be raised as "now provided by law," and that they shall be held by the treasurer

\* The taxing power should not be held to exist in a body seeking to exercise such power unless the power is conferred upon such body in clear and unequivocal terms.—*People v. Mottinger*, 215 Ill., 256. (Refers to city of Joliet; see School Laws of 1907, special edition of 1907, p. 8.)



subject to the order of the school inspectors on warrants to be countersigned by the mayor and city clerk. *Held*, that the latter statute did not give the board of school inspectors authority to levy taxes by repealing the former statute by implication.—*People v. Mottinger*, 74 N. E. 160; 215 Ill. 256.

The provisions of Priv. Laws, 1857, p. 219, chap. 11, giving the city council of Joliet the right to levy taxes for school purposes, are not repealed by implication by the incorporation act of 1872 (Laws, 1871-72, p. 218), under which the city was incorporated, the subject of taxes not being mentioned in the statute, and art. 1, sec. 6, providing in express terms that all laws not inconsistent with the provisions of the statute should continue in force.—*Ibid*.

The provisions of Priv. Laws, 1857, p. 219, chap. 11, giving the city council of Joliet authority to levy taxes for school purposes, were not repealed by the general school law.—*Ibid*.

- D 627. **Illinois** (1906): A taxpayer is entitled to enjoin a contract between the public school board and the state board of education providing for the employment of critic teachers to be paid in part by the school district.—*Linblad v. Board of Education of Normal School District*, 77 N. E. 450; 221 Ill. 261; reversing judgment (1905), 122 Ill. App. 617.

- D 628. **Illinois** (1906): A levy by a school district for building purposes is illegal unless the building has first been authorized by a vote of the people.—*St. Louis, A. & T. H. R. Co. v. People*, 79 N. E. 664.

Boards of education have authority to levy taxes only for educational and building purposes.—*St. Louis, A. & T. H. R. Co. v. People*. *Ibid*.

A board of education *held* authorized to levy a tax to pay for a heating plant to be installed in a school building the board had been authorized to construct by a vote of the people.—*St. Louis, A. & T. H. R. Co. v. People*. *Ibid*.

- D 629. **Illinois** (1906): A certificate signed by all the members of the board of education of a city, to the effect that they require a certain sum "to be levied as a special tax for school purposes, and \$8,500 for building purposes on the taxable property of our district" for a certain year, is sufficient to authorize the levy and extension of such building tax by the proper officers.—*People v. Chicago and T. R. Co.*, 79 N. E. 151; 223 Ill. 448.

- D 630. **Illinois** (1907): Peoria city charter (Priv. Laws, 1869, pp. 169, 170) declares that the board of school inspectors shall appoint trustees who shall raise all moneys under control of the school board, and keep a true and accurate account of money paid out on the board's order. The board is also required to determine the amount to be raised by taxation for the support of the schools, and to notify the city council of such amount, and the rate to be levied; the city council then being required to levy and collect the amount with other city taxes. *Held* that, no discretion being given to the city council as to the amount to be levied, such board was a "school authority," authorized to issue warrants in anticipation of taxes for ordinary and necessary expenses by Hurd's Rev. St. 1905, chap. 146a, sec. 2.—*Gray v. Board of School Inspectors of Peoria*, 83 N. E. 95; 231 Ill. 63.

631. **Indiana**: Amending and adding to sec. 5, chap. 32, Laws, 1905, and amending sec. 8, chap. 32, Laws, 1905, relative to the distribution of the special reserve portion of the state common school tuition fund.<sup>a</sup>

Reducing required local tuition tax from 40 to 25 cents per hundred dollars, excepting in cases of school corporations maintaining seven months term of school.

Providing for the transfer of unused surplus to the common school fund.

Chap. 237, Mar. 11, 1907.

<sup>a</sup> See enactment 221, pp. 48-49, Bureau of Education Bulletin, No. 3, 1906, *State School Systems*.

632. **Kansas:** Repealing and reenacting with amendments, chap. 381, Laws, 1905, as amending sec. 6127, Compiled Laws, 1901, relative to the powers of electors at school meetings.

Granting authority to all districts to levy an annual tax of 2½ per cent (formerly, only districts having more than 500 population; others, 2 per cent). Authorizing payment of floating indebtedness from tax levy.

Chap. 318, Mar. 9, 1907.

633. **Kansas:** Repealing chaps. 406 (local act, Coffeyville), 409 (local act, Fort Scott), and 421 (local act, Pittsburg), Laws, 1905, and amending sec. 1, chap. 252, Laws, 1899, relative to regulation, support, and maintenance of public schools and erection of buildings in cities of the first class.

Limiting tax levy for support of public schools in cities of the first class to 20 mills; excepting in cities having population of more than 38,000, 17 mills. Such levies exclusive of levies for payment of interest on bonds or for sinking funds. Sundry minor amendments.

Chap. 330, Feb. 18, 1907.

634. **Kentucky:** Amending sec. 2903, Statutes, 1903, relative to taxation for common schools in cities of the first class.

Increasing required minimum levy from 33 cents to 36 cents. (Pertains to Louisville only; see chap. 52, Mar. 18, 1908, relative to classification of cities.)

Chap. 61, Mar. 24, 1908.

- D 635. **Kentucky (1907):** Common School Law, sec. 78 (Ky. St. 1903, sec. 1440), provides, when the county superintendent notifies the trustees that a schoolhouse or the inclosures thereof have been condemned and need repairing or additions, or that the furniture, etc., is insufficient, or when it becomes necessary to purchase a new schoolhouse site, if there are no funds available the trustees shall levy a capitation or ad valorem tax, or both, to be applied to the purposes required. *Held*, that the section requires the trustees to make the levy when notified by the county superintendent that he has condemned the district's school facilities, and that they must make the levy when necessary to purchase a new schoolhouse site; or they, in their discretion, may make it without an order from the superintendent, when necessary to purchase a site, or erect, equip, repair, or add to a schoolhouse.—*Creech v. Board of Trustees of Common School Dist. No. 15 of Harlan County*, 102 S. W., 804, 31 Ky. Law. Rep., 379.

636. **Louisiana:** Amending and re-enacting sec. 63, act 214, Acts, 1902, relative to the tax for the support of public schools.

Removing certain limitations. Fixing minimum local levy at 3 mills (formerly, 1½ mills). Exceptions.

Act No. 27, June 20, 1908.

- D 637. **Louisiana (1908):** The estimate furnished to the city by the school board of amount needed to meet expenses of maintenance of schools for the year was not controlling on the city except to the minimum amount provided by the statute (No. 36, of 1873, p. 73).

Over and above the minimum amount, it was left to the discretion of the city council to determine whether an amount would be added.—*State ex rel. Gasquet et al. v. Mayor, etc., of city of New Orleans*, 46 So., 798.

638. **Maine:** Amending sec. 13, chap. 15, Revised Statutes, 1903, relative to tax for schools.

Decreasing per capita town school tax from 80 to 55 cents.

Sec. 1, chap. 111, Mar. 26, 1907. (Jan. 1, 1908.)

639. **Michigan:** Amending sec. 20, chap. 2, act No. 104, Acts, 1881 (sec. 4005, Compiled Laws, 1897), relative to powers of district school meetings.

Giving district meeting additional power to establish and support new district libraries, to pay premiums on surety bonds required of officers, to pay for transportation of pupils to and from school, and to devote

funds derived from 1-mill tax for said transportation. Providing that no legal subdivision of land more than 2½ miles from schoolhouse site shall be taxed for building said schoolhouse.

Sec. 1 (pp. 109-111), act No. 91, May 15, 1907.

640. **Michigan:** Amending sec. 9, chap. 3, act No. 164, acts, 1881 (sec. 4674, Compiled Laws, 1897), relative to school-district taxation.

Including item of payment of district officers in estimate of amount to be raised by taxation. Limiting compensation of said officers under certain conditions.

Removing limitation of tax in certain districts.

Sec. 1 (p. 111) act No. 91, May 15, 1907.

641. **Minnesota:** Amending sec. 1415, Revised Laws, 1905, relative to levy of additional taxes for school purposes in school districts having 50,000 inhabitants or more.

Raising maximum limit of additional levy from 3 to 4 mills; 2½ (formerly 2½) mills for general maintenance.

Chap. 308, Apr. 22, 1907.

642. **Mississippi:** Authorizing municipalities constituting separate school districts to issue bonds to build and repair school buildings, to maintain schools, to pay expenses, and to levy taxes.

Maximum levy 3 mills unless more authorized by majority of taxpayers.

Chap. 101, Mar. 11, 1908.

643. **Mississippi:** Authorizing any municipality not composing a separate school district to levy an annual tax to aid in the education of children within such municipality limits.

Maximum tax, 3 mills.

Chap. 127, Mar. 18, 1908.

644. **Montana:** Amending secs. 1940a, 1940b, Political Code, as enacted by S. B. No. 44, p. 129, Laws, 1897, and as amended by H. B. No. 191, p. 12, Laws, 1901, relative to levy of taxes for support of common schools.

Increasing maximum special county tax levy for schools from 2 to 4 mills, and maximum special district tax levy from 5 to 10 mills.

Chap. 51, Feb. 27, 1907.

645. **Nebraska:** Providing for an equitable division of taxation for school purposes in joint school districts.

Chap. 118, Apr. 6, 1907.

646. **New Hampshire:** Relating to taxation and expenditures in village districts, precincts, school districts, highway districts, fire districts, and other like subdivisions of towns.

Requiring vote by ballot for raising and appropriating money at a special meeting; number of votes cast to be at least half those cast at the next preceding regular meeting; check list to be used if same was used at preceding regular meeting.

Chap. 121, Apr. 4, 1907.

647. **New Hampshire:** Relieving the town of Roxbury relative to taxation for school purposes.

Exempting selectmen, during 1907 and 1908, from requirements relative to assessment of taxes for school purposes.

Authorizing board to contract with other districts for proper schooling of children and to pay for the same out of school money.

Chap. 185, Feb. 20, 1907.

648. **New Jersey:** Supplementing chap. 110, Laws, 1906, reducing and limiting rate of taxation into several taxing districts.

Providing for a maximum increase for county, school, district, and local taxes of 80 cents per hundred dollars of valuation.

Chap. 182, Apr. 11, 1908.

640. **North Carolina:** Amending secs. 4109 and 4110, chap. 85, Revisal, 1905, relative to form of tax lists.

Secs. 1d and 1e, chap. 835, Mar. 9, 1907.

650. **North Carolina:** Amending sec. 4115, chap. 85, Revisal, 1905, relative to elections for special school tax.

Providing for enlargement of special tax districts and elections therefor.

Sec. 1f, chap. 835, Mar. 9, 1907.

D 651. **North Carolina (1906):** The legislature can create a specific school district within the precincts of a county, incorporate its controlling authorities, and confer upon them certain governmental powers, and when accepted and sanctioned by a vote of the qualified electors within the prescribed territory, as required by constitution, art. 7, sec. 7, may delegate to such authorities power to levy a tax in furtherance of the corporate purpose.—*Smith v. Board of Trustees of Robersonville Graded School*, 53 S. E., 524.

D 652. **North Carolina (1907):** Constitution, art. 9, sec. 1, declares that schools and the means of education shall be forever encouraged, and commands in sec. 3 that one or more public schools shall be maintained for four months in every year in each school district in each county of the State, and that the school commissioners shall be liable to indictment for failure to comply with this requirement. Constitution, art. 5, sec. 1, directs the levying of a capitation tax by the general assembly, which shall be equal on each to the tax on property valued at \$300, and the state and county capitation tax combined shall never exceed \$2 on the head. Sec. 6 provides that the taxes levied by the commissioners for county purposes shall never exceed the double of the state tax, except for a special purpose and with the special approval of the general assembly. Revisal, 1905, sec. 4112, authorizes the board of county commissioners, if the tax levied by the State for the support of the public schools is insufficient to maintain one school in each school district for four months in each year, to levy a special tax to supply the deficiency. *Held*, that the county commissioners may, where the tax levied by the State for the support of the public schools is insufficient, levy a special tax, observing the equation between property and the poll fixed in the constitution, sufficient to maintain a public school in each school district for four months in each year, though it exceeds the limitations fixed in constitution, art. 5.—*Collie v. Commissioners of Franklin County*, 50 S. E., 44.

653. **Ohio:** Authorizing school boards to levy tax to support universities and colleges located in village school districts.

Maximum annual levy of 2 mills. Free tuition for two years for high-school graduates.

H. B. 1274, p. 519, May 9, 1908.

654. **Oklahoma:** Authorizing school district boards to contract for construction of schoolhouses to be paid for on the rental plan.

Maximum tax, 3 mills. Maximum total tax for all purposes, 31½ mills. (Sec. 9, art. X, Const.)

Chap. 77, S. B. 341, p. 671, May 5, 1908.

655. **Oregon:** Amending sec. 3372, Bellinger and Cotton's Annotated Codes and Statutes, 1901, relative to percentage of school tax to be applied to salaries, and repealing sec. 3377, relative to the unexpended balance of tax.

Chap. 18, Feb. 13, 1907.

656. **Oregon:** Amending sec. 3374, Bellinger and Cotton's Annotated Codes and Statutes, 1901, as amended by H. B. No. 264, p. 214, Laws, 1903, and repealing sec. 3080, relative to county courts levying taxes for school purposes.

Increasing maximum amount of levy from 5 mills on the dollar to \$7 per capita of children within the county between the ages of 4 and 20 years. Per capita levy not to be less than levy for 1903.

Chap. 99, Feb. 23, 1907.

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657. **Rhode Island:** Exempting from taxation real estate of the Hope Street High School Athletic Association.

Chap. 1605, Apr. 16, 1908.

658. **South Carolina:** Amending sec. 1208, Code, 1902, as amended by act No. 71, acts, 1906, providing for the voting of special taxes for school purposes.

Fixing time for holding elections.

Act No. 292, p. 631, Feb. 20, 1907.

659. **South Carolina:** Providing a special fund for the purchase of property, erection of buildings and their equipment, providing additional school facilities for educational purposes in the city of Charleston, or any one or more of said purposes.

Providing for a special tax levy of one-half of 1 mill for six successive years, commencing with 1907.

Act No. 327, p. 732, Feb. 7, 1907.

660. **South Carolina:** Amending sec. 1246, Civil Code, 1902, relative to the city schools of Charleston.

Increasing annual levy, for schools from 1 mill to 2 mills.

Act No. 465, Feb. 25, 1908.

661. **Tennessee:** Amending chap. 8, acts, 1885 (sp. sess.), incorporating the city of Knoxville.

Authorizing special levy of 30 cents on each \$100 of valuation for erecting and enlarging certain schools.

(Error in dates in title corrected by chap. 389, Apr. 12, 1907.)

Chap. 91, Feb. 15, 1907.

662. **Texas:** Amending constitution, sec. 3, art. 7, 1876, increasing the amount of tax that may be voted on school districts and providing for a majority vote of the property tax-paying voters of such districts to vote such tax.

Increasing maximum limit of local tax levy in school districts from 20 to 50 cents.

J. R. No. 7, p. 413, Mar. 20, 1907.

Adopted, November, 1908.

663. **Texas:** Amending sec. 58, chap. 124, Laws, 1905, relative to special local school tax.

Application for such tax may be made by 20 or a majority of qualified property taxpaying voters.

Chap. 83, Apr. 6, 1907.

D 664. **Texas (1906):** Acts, 1900, p. 19, chap. 7, sec. 6, provides that in cities constituting independent school districts, and where a special tax for school purposes has been voted by the people or fixed by special charter not exceeding one-half of 1 per cent, the board of trustees shall determine the amount of such taxes, within the limit voted by the people or fixed by special charter, which shall be necessary for the maintenance of the schools for the current year, and it shall be the duty of the city council, on the requisition of the school board, to actually levy and collect such tax. Such provision was reenacted in express terms in Acts, 1905, p. 308, chap. 124, sec. 168, and other provisions of the act provide for an election by the voters of an incorporated city to determine whether the city public schools shall be under the control of the city council or board of trustees, and in express terms confers on the board of trustees, when that method of administration is adopted, full control of the public schools within the city. *Held*, that where a city's schools were under the control of a board of trustees, and such board determined in its discretion the amount of taxes, within the authorized limit, which should be levied for the ensuing year, the city council had no discretion but to levy that amount certified.—City Council of City of Crockett v. Board of Trustees for Independent School District of City of Crockett, 98 S. W., 889.



665. **Utah:** Amending sec. 1936, Revised Statutes, 1898, as amended by chap. 127, Laws, 1901, relative to the estimate, levy, rate, and collections of taxes for city school purposes.

Increasing maximum limit of tax levy for support and maintenance from 5½ mills to 6½ mills, at least 3 mills of which shall be for the payment of teachers.

Chap. 89, Mar. 14, 1907.

666. **Virginia:** Amending and reenacting sec. 833, Code, 1904, adding new sec. 833a, prescribing powers and duties of boards of supervisors in relation to county and school levies.

Chap. 177, Mar. 11, 1908.

667. **Virginia:** Amending and reenacting sec. 1500, Code, 1904, as amended relative to school funds.

Increasing minimum limit of levy for public school purposes by county board of supervisors from 7½ cents to 10 cents; maximum limit from 40 to 40 cents. Exceptions. Minor amendments.

Chap. 210, Mar. 12, 1908.

668. **Virginia:** Amending and reenacting sec. 1514, Code, 1904, relative to assessment of school taxes.

Adding minor provision concerning form of record book.

Chap. 309 (in part), Mar. 14, 1908.

669. **Washington:** Authorizing and empowering cities of the first class to include within local improvement districts tide lands and land in school sections the title to which remains in the State, and to assess such land for the cost of local improvements and authorizing the sale of such lands.

Chap. 73, Mar. 5, 1907.

- 670\*. **Washington:** Amending sec. 112, chap. 118, Laws, 1897 (Code of Public Instruction), relative to special local tax levies for school purposes.

Removing limitations of tax to be imposed (5 mills) without vote of electors. Providing for special levies in union school districts.

Sec. 5, chap. 163, Mar. 13, 1907.

671. **West Virginia:** Amending and reenacting sec. 38, chap. 45, Code, 1906, as amended and reenacted by chap. 67, acts, 1905, relative to tax levies for school building and supply fund.

Fixing maximum annual local tax levy for such purpose at 15 cents, and at 25 cents in case of construction of new buildings. Conditions of levy and payment of indebtedness.

Chap. 70, Feb. 27, 1907.

672. **West Virginia:** Amending and reenacting sec. 40, chap. 45, Code, 1906, as amended and reenacted by chap. 67, acts, 1905, relative to tax levy for support of primary free schools.

Tax levy to be sufficient to support schools for six (formerly five) months each year. Maximum levy 25 cents, except in cases where such is insufficient to provide six months term. Authorizing special high school tax of 10 cents.

Chap. 70, Feb. 27, 1907.

673. **Wisconsin:** Amending sec. 926, subdv. 145, Statutes, 1898, as amended by chap. 81, Laws, 1899, as amended by chap. 387, Laws, 1901, relative to taxation for school purposes in cities of the third and fourth class.

Extending provisions of act to school districts including within their limits all or any part of such cities. Tax to be levied and collected as other school taxes.

Chap. 67, Apr. 30, 1907.

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674. **Wisconsin:** Amending subsec. 7, sec. 430, Statutes, 1898, relative to the powers of school district meeting.

Authorizing levy of a tax to pay fee for surety bond of district treasurer.

Chap. 88, May 4, 1907.

675. **Wisconsin:** Amending sec. 471, Statutes, 1898, as amended by chap. 307, Laws, 1905, relative to equalization of taxes in joint school districts.

Relative valuation of taxable property in several parts of joint district to be equalized only upon petition of three freeholders, prior to July 10 of any year (formerly annually). Other minor amendments.

Chap. 90, May 10, 1907.

## D. BUILDINGS AND SITES.

### (a) General.

A very large proportion of the general legislation having to do with school buildings and sites has already been included under the heading of Local Bonds and Indebtedness. The special enactments in Massachusetts (685), Minnesota (688), and New York (581) are here again referred to as evidences of the pressure felt by the public schools of our larger American cities to supply proper school accommodations. The amendment in Wisconsin (506) relative to the equipment of free high schools as a condition for state aid, the Indiana decision (D 681), and the Wisconsin measure (705) as to the use of school buildings for other than strictly school purposes, are not without significance and interest.

676. **Arizona:** Amending sundry secs. of tit. 21, Revised Statutes, 1901, relative to eminent domain.

Extending right of eminent domain to "any educational, reformatory, or penal institution." Provisions concerning costs.

Chap. 91, Mar. 21, 1907.

677. **Colorado:** Amending sec. 1, Acts, 1883, p. 263, providing for condemning sites for public-school buildings.

Adding special provision; permitting districts of the first class to take three acres (others, one acre) of land, if unplatted, and not exceeding one block if platted.

Chap. 217, Apr. 9, 1907.

678. **Illinois:** Enabling trustees, boards of education, and other corporate authorities of universities, colleges, township high schools, and all other educational institutions established and supported by the State, or by a township, to exercise the right of eminent domain.

S. B. 550, p. 522, May 24, 1907.

679. **Indiana:** Repealing, and reenacting with sundry amendments, chap. 87, Laws, 1881 (secs. 6006-6008, Burns' Annotated Statutes, 1901), providing for the appropriation of real estate for school purposes.

Chap. 87, Mar. 1, 1907.

680. **Indiana:** Providing for the sale of school property.

Authorizing the school trustee upon petition of two-thirds of the qualified voters of school district to sell unused school property. Minimum price, two-thirds of appraised value.

Requiring appraisal by three disinterested householders and publication of notice of sale.

Chap. 267, Mar. 12, 1907.

D 681. **Indiana** (1903): Burns' Ann. St. 1901, secs. 5920a-5981, relative to the duration of school terms in school townships; and sec. 5909 grants the right to use a public school building for other than school purposes when "unoccupied for common school purposes." *Held*, that the term "unoccupied for common school purposes" had reference only to the time intervening between terms of school, and did not authorize a religious organization to use a schoolhouse on Sundays and evenings during a school term, when the school was not actually in session.—*Baggerly v. Lee*, 73 N. E., 921.

682. **Iowa:** Repealing sec. 2814, Code, 1897, concerning the acquisition of school sites and enacting a substitute.

Making special provision concerning size of site in the case of consolidated districts.

Chap. 153, Apr. 5, 1907.

D 683. **Iowa** (1908): Code, sec. 2814, as amended by Laws, 1907, p. 152, chap. 153, authorizes school corporations to hold, within certain limitations, land for schoolhouse sites, which must be upon public roads, and, except in cities, etc., at least 30 rods from the residence of any owner who objects to a site being placed nearer. Sec. 2815 provides for condemnation of a site if the owner refuses or neglects to convey, etc. Sec. 2773 authorizes boards of directors to fix schoolhouse sites. *Held*, that the term "owner," used in sec. 2814, refers to the owner of a residence within 30 rods of a schoolhouse site, and not to the owner of the site, and that the prohibition against locating a site within 30 rods of a residence applies to schoolhouse sites whether acquired by purchase, devise, gift, or condemnation.—*Mendenhall v. Board of Directors of Independent School Dist. of Leighton*, 115 N. W., 11.

D 684. **Kentucky** (1906): Ky. Stat. 1903, secs. 3588-3606, authorize cities of the fourth class to create boards of education, provide that the title to the school property shall vest in the board, etc. A city of the sixth class, constituting a part of a graded school district, was made a city of the fourth class, and the city council created a board of education. *Held*, that the board of education was entitled, as against the trustees of the graded school district, to possession of the property of the school district within the city.—*Trustees of Latonia Graded School Dist. No. 12 v. Board of Education of Latonia*, 93 S. W., 590; 29 Ky. Law Rep., 391.

685. **Massachusetts:** See enactment No. 568.

686. **Massachusetts:** Authorizing the city of Springfield to acquire Long Hill Cemetery for school purposes.

Authorizing the city council, upon the removal of the bodies interred to other suitable places and the replacement of tombstones upon the new graves, to take Long Hill Cemetery for school purposes.

City to pay all damages to property.

Chap. 342, Apr. 29, 1907.

D 687. **Michigan** (1907): Comp. Laws, sec. 4065, subdv. 4, gives the qualified voters of a school district authority to designate a school site as there-after provided; subdv. 5 gives such voters authority to direct the purchase of sites lawfully determined on; and subdv. 6 confers authority to vote a tax therefor. *Held*, that since secs. 4728 and 4729, prescribing the method referred to in sec. 4065, subdv. 4, for designating school sites, contain no authority for purchase or condemnation by a board of education of a city without prior action by the voters of the district, proceedings by such officers to condemn a school site without such vote were unsustainable.—*Board of Education of City of Detroit v. Moross*, 114 N. W., 75; 14 Detroit Leg. N., 683.

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688. Minnesota: See enactment No. 570.

689. Minnesota: Authorizing cities having a population of over 50,000 to condemn lands under the right of eminent domain for sites and grounds for public school buildings, and for all other municipal or public buildings for such cities, or for any of the departments of its government.

Power and authority to be exercised under the authority of chap. 41, Revised Laws, 1905.

Chap. 291, Apr. 22, 1907.

690. Nebraska: Amending, and reenacting with amendments, secs. 1, 2, 3, and 4, subdv. 12, chap. 79, Compiled Statutes, 1905 (secs. 11166 to 11169, Cobbe's Annotated Statutes, 1903), relative to appraisal of property for school sites.

Adding provisions relative to procedure for the exercise of eminent domain by school districts in cities.

Chap. 126, Apr. 3, 1907.

691. New Jersey: Authorizing the board of education of any township, upon two-thirds vote of its members, to transfer any unused school building to the township in which said board of education is located and to empower the township committee to use said building for municipal purposes.

Chap. 49, Apr. 12, 1907.

D 692. New Jersey (1908): A resolution of the board of school estimate, fixing and determining the amount of money necessary for the erection of a schoolhouse at the sum of \$175,000, on condition that a school building containing 20 units shall be erected, is not such a determination of the amount necessary for the purpose of building as is required by School Law, 1903, sec. 76 (P. L., 1903, 2d sp. sess., p. 28).—Board of Education of Montclair v. Town Council of Montclair, 88 A., 795.

693. New York: See enactment No. 581.

694. New York: Authorizing the city of New York to acquire certain lands as sites for public buildings and to provide for the establishment and maintenance of public educational institutions.

Chap. 515, June 17, 1907.

695. New York: Authorizing the city of Utica to issue bonds in the amount of \$20,000 to enable the commissioners of common schools of such city to equip, remodel, and repair school buildings so as to safeguard the pupils in case of fire.

Chap. 244, May 11, 1908.

696. North Dakota: Providing for a site for the statue of Sakakawea, the Indian guide of the Lewis and Clark expedition.

Statue erected by women, students, and school children of the State upon the initiative of the Federation of Women's Clubs. Appropriating \$1,000.

Chap. 12, Mar. 2, 1907.

697. North Dakota: Amending sec. 831, Revised Codes, 1905, relative to the organization of schools on petition.

Increasing maximum expenditure for schoolhouse and furniture from \$700 to \$1,200.

Sec. 5, chap. 95, Mar. 19, 1907.

698. Rhode Island: Authorizing the city of Providence to build and maintain conduits and carry steam pipes therein in, under, and across Pond and Summer streets, and providing for installing a central heating plant on the technical high school premises in said city.

Chap. 1476, Apr. 5, 1907.

699. **Rhode Island:** Amending, by adding to, act of May, 1827, confirming an act of the town of Newport for establishing a public-school fund.  
Public-school fund may be used for the erection of a new schoolhouse.  
Chap. 1618, May 13, 1908.

700. **South Dakota:** Providing for the protection of State, county, and municipal corporations and school districts and of persons furnishing material and labor for the construction or repair of public or school buildings.

Providing that surety bonds for the performance of contracts shall contain obligation of contractor to make payments promptly to all persons supplying labor and materials. Authorizing suit for recovery.

Chap. 138, Mar. 4, 1907.

701. **Washington:** See enactment No. 535.

702. **Wisconsin:** See enactment No. 506.

703. **Wisconsin:** See enactment No. 1202.

704. **Wisconsin:** Creating sec. 926—17, Statutes, 1898 (sec. 926—104m), relative to the powers of boards of education in cities of the third class.

Relieving boards, authorized to purchase sites and erect high-school buildings, from restrictions as to territorial limitations imposed by city charter.

Chap. 69, May 1, 1907.

705. **Wisconsin:** Creating subsec. 70, sec. 925—52, Statutes, 1898, relating to the powers of cities.

Schoolhouses may be used for public meetings for social and educational purposes.

Chap. 244, June 19, 1907.

(b) Buildings and sites: State aid; approval of plans.

The legislation of each biennium clearly demonstrates that the State is concerning itself more and more in the matter of properly erected and planned school buildings. As the extent of this state supervision increases there is certain to be a decrease in the present waste of funds through the erection of ill-adapted buildings, and an increase in the number of those buildings in which have been incorporated the features demanded by a proper regard for the health of children and the requirements for efficient teaching. The tendency to require that the plans of school buildings be approved by some competent authority, and the tendency to place in the hands of local school authorities plans of properly constructed and hygienically arranged schoolhouses, are illustrated in the principal enactments brought together under this head: North Dakota (707), Tennessee (708), Virginia (709), Washington (711), and Wisconsin (712). The presence of these measures in the legislation of the period is decidedly encouraging.

706. **Alabama:** Making annual appropriation to aid rural school districts to erect and to repair public schoolhouses.

Annual appropriation of \$67,000, and prescribing conditions and methods of payment of state aid;

"Provided further that no appropriation shall be made for the building of a schoolhouse unless said schoolhouse is built in accordance with



the plans and specifications either furnished by or endorsed by the superintendent of education of the state."

Maximum aid for any schoolhouse, \$200; maximum aid in any one county, \$1,000.

Act No. 163, p. 238, Mar. 2, 1907. (Secs. 1975-1993, Code, 1907.)

- 707\*. **North Dakota:** Amending sec. 820, Revised Codes, 1905, relative to schoolhouses and sites.

Providing that county superintendent of schools and county superintendent of health shall be consulted by district school boards purchasing, erecting, or constructing schoolhouses, with reference to proper construction, lighting, heating, and ventilation. State superintendent to furnish plans for one and two room schoolhouses. Constituting county superintendent of schools, county superintendent of health, and chairman of board of county commissioners as board of inspection for schoolhouses.

Chap. 96, Mar. 14, 1907.

708. **Tennessee:** Providing for the preparation and distribution to local school authorities of plans of school buildings costing from \$300 to \$5,000.

Chap. 234, Apr. 1, 1907.

709. **Virginia:** Amending and reenacting chap. 255, Acts, 1906, relative to the issuance of bonds by school districts for the purpose of erecting and furnishing schoolhouses.

Removing three-year limitation as to the sufficiency of school funds. Plans of schoolhouse to be approved by superintendent of public instruction, in addition to division superintendent. Bonds as lien on property of district or a part thereof.

Chap. 82, Feb. 25, 1908.

710. **Virginia:** Amending and reenacting chap. 252, Acts, 1906, relative to the borrowing of money belonging to the literary fund by district school boards for the purpose of erecting schoolhouses.

Extending provisions of act to cities. Increasing maximum loan limit for any one building from \$3,000 to \$10,000. Special provisions regarding loans in excess of \$3,000. Authorizing the state board of education to convert securities of literary fund into cash, not to exceed \$100,000 per annum.

Chap. 83, Feb. 25, 1908.

- 711\*. **Washington:** Supplementing the Code of Public Instruction (chap. 118, Laws, 1897), by adding sec. 474, relative to approval of plans of schoolhouses by county superintendent.

Excepting districts having a population of 10,000 or more.

Sec. 2, chap. 103, Mar. 13, 1907.

- 712\*. **Wisconsin:** Creating sec. 524L, Statutes, 1898, relative to plans and specifications for school buildings.

Authorizing state superintendent of public instruction to procure plans and specifications for buildings not exceeding four rooms; to loan same to school districts. Appropriating \$500.

Providing for the approval of plans and specifications of buildings by county superintendent when plans of state superintendent are not used.

Chap. 425, June 20, 1907.

(c) **Buildings and sites:** Decoration, care, sanitation, inspection.

The following enactments are in their evident purpose supplementary to those noted in the previous section. Each of them bears characteristic evidence of progress in a needed direction. That of Indiana (718) relative to the employment and payment of janitors will undoubtedly result in an improvement in the schools of rural

districts. The decision in Indiana (D 714) as to the authority of the state board of health over public-school buildings is noted in connection with the present-day movement to place the sanitary supervision of school buildings in the hands of competent persons. The enactment of Massachusetts (719) relative to the inspection of school buildings is of particular interest in this connection.

The three most important items of this group are that of Ohio (721), providing for the inspection of school buildings; that of Virginia (727), regulating the construction of school buildings, and those of Wisconsin (729), (730), (731), relative to the conditions for state aid to rural schools.

713\*. Indiana: Amending sec. 3, chap. 192, Laws, 1899, relative to duties of school trustees.

Adding provision that "said trustees shall provide such janitor help as may be deemed necessary to properly care for the schools and premises under their control, and such janitors shall be paid from the school funds of the township."

Chap. 218, Mar. 9, 1900.

D 714. Indiana (1908): The state board of health may only require that the public school buildings be made sanitary, the means of securing proper sanitation being left to the local authorities.—Advisory Board of Coal Creek Tp., Montgomery County, v. Levandowski, 84 N. E., 346.

D 715. Kentucky (1905): Under Ky. Stat. 1903, sec. 2954, providing that the school board of a city shall apply the funds annually coming into its hands for educational purposes to certain objects, including salaries, and sec. 2956, providing that it shall elect teachers and regulate and fix their salaries, and the term of office of teachers and employees of the board, it may employ a janitor; and, having done so, it is its duty to pay his salary from the fund for educational purposes.—Oberdorfer v. Louisville School Board, 85 S. W., 606; 27 Ky. Law Rep., 508.

D 716. Kentucky (1905): A city is not liable for injury to a pupil from a defect in a building furnished by it for a public school, it being owned by it not for private or municipal purposes, but for a public purpose.—Clark v. City of Nicholasville, 87 S. W., 300; 27 Ky. Law Rep., 974.

717. Louisiana: Prescribing the way in which doors to public buildings and factories shall be hung; determining to what buildings act shall apply; and fixing a penalty for the violation thereof, or failure to comply with the provisions thereof.

Act No. 73, June 30, 1908. (Dec. 30, 1908.)

718. Maine: Requiring steam plants in school buildings, churches, and other public buildings to be in charge of competent persons.

Requiring persons in charge of steam-heating plants to hold a certificate of competency to be issued by municipal authorities. Providing for the form, content, and revocation of certificate.

Chap. 82, Public Acts, Mar. 20, 1907. (Sept. 1, 1907.)

719\*. Massachusetts: Providing for the establishment of health districts and the appointment of inspectors of health.

Transfers inspection of factories and public buildings from inspection department of the district police to state inspectors of health.

Enforcement of secs. 54-55, chap. 106, Revised Laws, 1902, relating to the inspection of school buildings by state inspectors of health.

Chap. 487, June 19, 1907.

719a. Massachusetts: Relative to janitors of public schoolhouses in the city of Worcester.

Janitors to be under the control of the school committee.

Chap. 258, Mar. 23, 1908.

720. North Carolina: Providing for pure and adequate water supplies for the public and private schools of the State.

Granting to constituted school authorities power to condemn land for water supply and prescribing procedure for condemnation.

Chap. 671, Mar. 6, 1907.

721\*. Ohio: Enlarging the powers of the chief inspector of workshops and factories in the matter of public schools and other buildings, and increasing the number of district inspectors.

"Sec. 1. In addition to the powers now vested in the chief inspector of workshops and factories it shall be his further duty to cause his district inspectors to inspect all schoolhouses, colleges, opera houses, halls, theaters, churches, infirmaries, children's homes, hospitals, medical institutes, asylums, and other buildings used for the assemblage or betterment of people in any municipal corporation, township or county in the State of Ohio with special regard to the precautions taken for the prevention of fires, and the provision of fire escapes, exits, emergency exits, hallways, air space, and all other matters which relate to the health and safety of those occupying or assembling in such structures.

"Sec. 2. The district inspectors shall file with the chief inspector of workshops and factories a written report of every inspection made of any of the aforesaid structures, stating the condition in which such building was found, and if it is found that necessary precautions for the prevention of fire or other disaster have not been taken, nor means provided for the safe and speedy egress of the persons who might be assembled therein, said report shall specify such appliances, additions or alterations as are necessary to provide such precautions and protection, and it shall then be the duty of the chief inspector of workshops and factories to notify in writing the owner or person having control of such structure of the appliances, additions or alterations necessary to be added to or made in such structure.

"Sec. 3. A copy of said notice shall be mailed to the mayor of the municipality, if such structure is located therein, and if not, then to the prosecuting attorney of the county wherein it is located, and it shall be the duty of the mayor of the municipality, with the aid of the police, or the prosecuting attorney, with the aid of the sheriff, upon receiving such notification, to prohibit the use of said structure for the assemblage of people until the appliances, additions or alterations required by said notice have been added to or made in such structure.

"Sec. 4. Upon receiving said notice it shall be the duty of the owner or person in control of such structure to comply with each and every detail embodied therein, and it shall be his further duty, upon the completion of every such detail, to report the fact in writing to the chief inspector of workshops and factories and the mayor of the municipality or the prosecuting attorney of the county as the case may be.

"Sec. 5. The plans for every such structure aforesaid which may be hereafter erected in the State of Ohio, and the plans for any alterations in or additions to any such structure aforesaid that is now erected shall be approved by the chief inspector of workshops and factories, except that in municipalities having regularly organized building inspection departments the plans shall be approved by said municipal departments.

"Sec. 6. Any architect, builder or other person who shall alter the approved plans, or fail to construct or alter the building in accordance with said approved plans without the consent of the department that approved them shall be deemed guilty of a criminal offense, and, upon conviction, shall be fined in any sum not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000), or imprisoned in the county jail no less than thirty days nor more than one year, or both such fine and imprisonment at the discretion of the court.

"Sec. 7. For the purpose of carrying out this provision of this act the chief inspector of workshops and factories shall, with the approval of the

governor, appoint one assistant chief inspector who shall be a competent and practical architect, and whose duty it shall be to examine carefully the plans and specifications of such buildings, alterations, and additions, and perform such other duties as the chief inspector may direct. The salary of said assistant chief inspector shall be two thousand five hundred dollars a year, which salary and all necessary traveling expenses incurred by said inspector in the discharge of his official duties shall be paid out of the treasury of the state on the warrant of the auditor from any fund therein not otherwise appropriated.

"Sec. 8. For the purpose of carrying out this act the chief inspector of workshops and factories is authorized to appoint, with the approval of the governor, ten additional district inspectors who shall be competent and practical mechanics, with a knowledge of building construction, and who shall receive the same compensation, be clothed with the same powers, and whose terms of office shall be the same as is now provided by law for the district inspectors of workshops and factories.

"Sec. 9. Any person, firm, board or corporation, being the owner or in control of any building mentioned in this act, who shall use or permit the use of such building, in violation of any order prohibiting its use, issued in accordance with this act or who shall fail to comply with the requirements of any order so issued relating to the change, improvement or repair of such building, shall be fined not less than ten, nor more than one hundred dollars, and each day that such use or failure shall continue shall constitute a separate offense."

H. R. 1225, p. 232, Apr. 28, 1908.

722. **Oklahoma:** Providing certain buildings, public and private institutions, and places of public assemblage, and places of public resort, hotels, lodging, apartment, and other public houses, with fire escapes, and providing penalties for valuation thereof.  
Including schoolhouses.

Chap. 38, S. B. 100, p. 427, Apr. 28, 1908.

723. **Pennsylvania:** Providing for better sanitation of school rooms, relative to heating and ventilation.

Act No. 240, May 29, 1907. (Dec. 1, 1907.)

- D 724. **Pennsylvania (1905):** The city of Philadelphia, which is coterminal with the first school district of Pennsylvania, and has legal title to the public school buildings therein, is not liable in damages for injuries to a pupil in a public school by a fall of a part of the plastering from the ceiling of a schoolroom, although the board of education and its architect had several weeks' notice of the defect in the ceiling before the accident occurred. The ground for the city's exemption in such a case is that the school buildings are in the actual possession and control of the sectional school board and board of public education, and that the city has no voice in the selection of the officers, agents, or architects of the school district, and no power to remove them.—*Rosublit v. City of Philadelphia*, 28 Pa. Super. Ct., 587.

725. **Rhode Island:** Authorizing the city of Providence to borrow money to provide sanitary furnishings and equipment for schoolhouses.

Maximum amount, \$110,000.

Chap. 1478, Apr. 17, 1907.

726. **Rhode Island:** To diminish danger in case of fire.

Making general provisions for safety in all buildings used for public purposes, including schools. Doors and windows to swing outward; not to be locked during occupancy of building. Inspection. Penalties.

Chap. 1536, Apr. 22, 1908.

727. **Virginia:** Regulating the construction of public school buildings in order, that the health, sight, and comfort of all pupils may be properly protected.

"Whereas, it is of great importance to the people of this Commonwealth that public school buildings hereafter erected by any school board shall be properly heated, lighted and ventilated; therefore,

"1. *Be it enacted* by the general assembly of Virginia, That the State board of inspectors for public school buildings shall not approve any plans for the erection of any school building or room in addition thereto unless the same shall provide at least fifteen square feet of floor space and two hundred cubic feet of air space for each pupil to be accommodated in each study or recitation room therein, and no such plans shall be approved by said board unless provision is made therein for assuring at least thirty cubic feet of pure air every minute per pupil, and the facilities for exhausting the foul and vitiated air therein shall be positive and independent of atmospheric changes. All ceilings shall be at least twelve feet in height.

"2. All schoolhouses for which plans and detailed statements shall be filed and approved by said board, as required by law, shall have all halls, doors, stairways, seats, passageways, and aisles, and all lighting and heating appliances and apparatus, arranged to facilitate egress in case of fire or accidents, and to afford the requisite and proper accommodations for public protection in such cases. All exit doors in any schoolhouse of two or more stories in height shall open outwardly. No staircase shall be constructed except with straight runs, changes in direction being made by platform. No doors shall open immediately upon a flight of stairs, but a landing at least the width of the doors shall be provided between such stairs and such doorway.

"3. All schoolhouses, as aforesaid, shall provide for the admission of light from the left, or from the left and rear of the pupils, and the total light area must be at least twenty-five per centum of the floor space.

"4. Every school board shall provide at least two suitable and convenient outhouses or water-closets for each of the schoolhouses under its control; unless the said schoolhouses have suitable, convenient and sanitary water-closets erected within same, said outhouses or water-closets shall be entirely separated, each from the other, and shall have separate means of access. School boards shall see that said outhouses or water-closets are kept in a clean and wholesome condition."

Chap. 187, Mar. 11, 1908.

D 728. Washington (1907): Under Ballinger's Ann. Codes and Stat., secs. 5673, 5674, providing that an action may be maintained against a school district for an injury to plaintiff's rights, arising from its act or omission, such a district is liable for the scalding of a child rightfully in attendance at school, through the overturning of a large metal bucket of boiling water, which was negligently kept upon a register in the middle of the schoolroom, wholly unguarded and unprotected; and it was error to sustain a demurrer to her complaint showing such negligence and her freedom from contributory negligence.—*Redfield v. School Dist. No. 3, Kittitas County*, 92 P., 770.

729. Wisconsin: See enactment No. 492.

730. Wisconsin: Amending sec. 430, Statutes, 1898, authorizing school boards to provide maps, charts, globes, books, supplementary readers, and other equipment for schools.

Adding supplementary readers, dictionaries, library catalog cards and card cases, heating and ventilating apparatus, to the list of apparatus board has authority to buy. Maximum annual limit of expenditure increased from \$75 to \$100.

Chap. 39, Apr. 10, 1907.

731. Wisconsin: Creating sec. 435a, chap. 27, Statutes, 1898, relative to the duties of school boards in providing and maintaining suitable outbuildings.

Requiring separate outhouses for boys and girls. Making provisions as to sanitation, distance, and screening. Providing for tax levy to carry out provisions.

Chap. 232, June 18, 1907.



## (d) Buildings and Sites: Prohibition Districts.

The enactments presented under this heading do not, strictly speaking, belong to the special class of educational legislation. They do, however, present some conclusive evidence of a movement, already a part of the established policy of many States, for the protection of the educational as well as the broader social interests.

732. **Arizona:** Providing for the refusal and revocation of any license for the sale of intoxicating liquors.

Proof that holder of license has sold, bartered, furnished, or given away intoxicating liquors to any minor person, pupil, or student in any public school, academy, seminary, normal school, university, or other institution of learning among the several causes enumerated for the revocation or refusal of license.

Chap. 25, Mar. 12, 1907.

733. **Arkansas:** See enactment No. 1363.

734. **Connecticut:** Amending sec. 2647, General Statutes, 1902, concerning the granting of licenses in certain places.

Adding clause prohibiting in cities the granting of a license for the sale of spirituous and intoxicating liquors "within two hundred feet in a direct line from any church edifice or public or parochial school-house or the premises pertaining thereto."

Chap. 200, July 11, 1907.

- D 735. **Georgia (1907):** The fact that a school formerly taught in a building designated as the center of a 3-mile area in which a local prohibition act became effective is no longer taught in the original building, but in a new building, a short distance away, does not invalidate a conviction under that act of one guilty of selling intoxicating liquor within 3 miles of both the original and the subsequent location of the school.—*Mason v. State*, 58 S. E. 139; 1 Ga. App. 534.

736. **Illinois:** Prohibiting the sale, distribution, or gift of malt, spirituous, vinous, or intoxicating liquors near the United States naval training schools or military posts, and providing a penalty for the violation thereof.

H. B. 410, p. 300, May 17, 1907.

737. **Louisiana:** Prohibiting gambling with cards, dice, and all manner of banking games, or gambling in any form whatsoever for money or any representative of money within 5 miles of the Haynesville High School located at Haynesville, Claiborne Parish, and fixing penalties for violation.

Act No. 33, June 20, 1908.

See also the following additional special acts of similar nature:

Act No. 34, June 20, 1908.	Act No. 218, July 8, 1908.
Act No. 38, June 20, 1908.	Act No. 257, July 8, 1908.
Act No. 58, June 24, 1908.	Act No. 273, July 9, 1908.
Act No. 123, July 2, 1908.	

738. **Louisiana:** Prohibiting the sale of any spirituous, vinous, malt, or intoxicating liquors, or substitutes therefor within 5 miles of Benton High School, located at Benton, in the Parish of Bossier, and providing a penalty therefor.

Act No. 46, June 20, 1908.

See also the following additional special acts of similar nature:

Act No. 47, June 20, 1908.	Act No. 200, July 9, 1908.
Act No. 121, July 1, 1908.	Act No. 302, July 9, 1908.
Act No. 259, July 8, 1908.	



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**739. Louisiana:** Prohibiting the sale or offering for sale of vinous, malt, or spirituous liquors within a radius of 6 miles of the State Normal School, at Natchitoches, and prescribing penalties for the violations.

Act No. 193, July 8, 1908.

**740. Minnesota:** See enactment No. 1420.

**740a. Missouri:** Prohibiting the granting of a license to keep a dramshop within five miles of any state educational institution which now has enrolled fifteen hundred or more students.

H. B. 53, p. 257, May 10, 1907.

**D 740b. Missouri (1908):** Act May 10, 1907 (Laws, 1907, p. 257), providing that "no dramshop license shall hereafter be granted to any person to keep a dramshop within five miles of any state educational institution which now has enrolled fifteen hundred or more students," was violative of Const. 1875, art. 4, sec. 53 [Ann. St. 1906, p. 197], prohibiting special or local legislation; it appearing that the State University at Columbia was the only state educational institution which had the designated number of students at the time the act went into effect.—*State v. Turner*, 107 S. W., 1064.

**741. Nevada:** Regulating the location, equipment, and maintenance of hospitals. Prohibiting hospitals within 300 feet of public school buildings.

Chap. 206, Mar. 29, 1907.

**742. Oregon:** Prohibiting the locating of any saloon or place where liquor is sold at retail within 2 miles of any school where tuition, lodging, food, and clothing are furnished at the expense of the United States.

Chap. 107, Feb. 23, 1907.

**743. Rhode Island:** Amending sec. 2, chap. 102, General Laws, 1896, as amended by sec. 1, chap. 543, Public Laws, 1898, and as amended by chap. 1355, Public Laws, 1906, relative to the granting of liquor licenses.

Containing provision (p. 208) that no license shall be granted for a place of sale within 200 feet of any public or parochial school.

Chap. 1583, May 22, 1908.

**744. South Dakota:** Amending sec. 2859, Revised Political Code, 1903, relative to the sale of intoxicating liquors in the proximity of public or private schools.

Changing limits of prohibited districts from "in the same block with, or in any block adjacent to, any public or private school," to "within three hundred (300) feet of the grounds of any public or private school."

Chap. 175, Feb. 25, 1907.

**745. South Dakota:** Forbidding the sale of intoxicating liquors within one-third of a mile of any college or academy providing regular classical and scientific courses.

Excepting schools and colleges "devoted simply to instruction in business methods."

Chap. 177, Mar. 7, 1907.

**746. Tennessee:** Amending chap. 114, acts, 1883, relative to the creation, organization, and powers of municipal corporations embracing territories of cities having a population of 30,000 and upward according to the federal census of 1880, whose charters have been abolished (charter of the city of Nashville).

Prohibiting sale of intoxicating liquors within 4 miles of any public or private schoolhouse. Excepting certain described territory, and sales of liquors in wholesale package or quantities.

Chap. 34, Feb. 6, 1907. (July 1, 1907.)

**D 747. Tennessee (1907):** Under Shannon's Code, sec. 991, declaring the right to sell liquors is a taxable privilege within the constitution, and sec.

6795, prohibiting the sale of intoxicating liquors within 4 miles of a schoolhouse, and Acts, 1909, p. 309, chap. 161, sec. 1, prohibiting the sale of intoxicating liquors without a license, the ignorance of accused of the intoxicating properties of liquors sold is no defense, and if he sells he must know at his peril whether it is intoxicating or not, and his belief that it was not resulting from a guaranty under which he bought the liquor is no excuse.—Haynes v. State, 105 S. W., 251.

748. Wisconsin: Creating sec. 566m, prohibiting the building of a lock-up or temporary place of confinement in villages or cities of the third or fourth class within 300 feet of a public, private, or parochial school.

Chap. 339, June 22, 1907.

(e) United States Flag in Schools.

The seven enactments in this group are indicative of the spirit of patriotism and Americanism with which it is sought to surround the public school. Even a casual observer of the legislative activity with reference to schools can not fail to detect this as a species of the general variety of efforts to give to the public school as an institution a character of abiding loyalty.

749. California: Adding sec. 1617a to Political Code, 1906, requiring that the United States flag shall be hoisted on all public schoolhouses and displayed in each schoolroom.

Chap. 225, Mar. 15, 1907.

750. Indiana: Providing under certain circumstances for the purchase of United States flags by school corporations, and fixing times for the display thereof on school buildings; providing a penalty for mutilation of flag or appliances.

Flags to be purchased from funds privately donated.

Chap. 253, Mar. 12, 1907.

751. Kansas: Providing for the display of United States flag on public schools, and for flag exercises and observance of holidays.

Chap. 329, Mar. 6, 1907.

752. Maine: Providing schools with flags.

Requiring municipal officers, upon report of the superintendents of schools, to furnish flags to schools not already provided.

Chap. 182, Public Laws, Mar. 28, 1907.

753. Oregon: Providing for the public display of the United States flag upon or near each public school building and authorizing the payment of expenses in connection therewith.

Chap. 37, Feb. 16, 1907.

754. Tennessee: Requiring that the flag of the United States of America be displayed from all county and municipal public schoolhouses in counties having a population of 70,000 and less than 90,000 by the federal census of 1900, or that may have that number of inhabitants by any subsequent federal census, and providing penalties for failure to comply with the provisions of the act.

Chap. 480, Apr. 15, 1907.

755. Utah: Requiring every board of education or school trustees to provide each schoolhouse or the grounds thereof with an American flag, and to cause the said flag to be displayed thereon during daylight on legal holidays, Feb. 12, and "Flag Day" of each year.

Chap. 82, Mar. 11, 1907.

E. TEACHERS IN ELEMENTARY AND SECONDARY SCHOOLS.

(a) Qualifications: General.

756. **Kansas:** See enactment No. 1103.

757. **Washington:** Amending sec. 141 (Code of Public Instruction), relative to requirements for teachers' certificates.

Raising lower age limit from 17 years to 18 years. Providing for first grade primary certificates.

Sec. 13, chap. 240, Mar. 18, 1907.

758. **Wisconsin:** Amending sec. 9, chap. 439, Laws, 1901, as amended by chap. 285, Laws, 1903, and chap. 280, Laws, 1905, and making said section sec. 496d, Statutes, 1898, relative to state aid for graded schools.

Requiring principals of state graded schools of second class, holding first grade county certificates or state certificates, to have not less than one year's successful experience; or such principals may hold a second grade county certificate, in which case he must have had not less than two years' successful experience.

Chap. 374, June 24, 1907.

(b) Teachers' examinations and certificates: General.

By reason of their volume, and of their many evidences of educational progress, the enactments concerning the standards of qualification for teachers in the public schools represent one of the most interesting phases of the legislative activity of the biennium, especially when considered together with those dealing with normal schools and other institutions set up for the purpose of the professional education and training of teachers. (See Section G, enactments 898-946.)

In general it may be said that the legislation of the current biennium does not present such notable illustrations of progress as did that of the biennium 1904-1906. The tendency to continue the process of centralizing the right of examination and the powers of certification of teachers in state boards and officers is continued, although not in such a marked manner as in the previous biennium. The revised school codes of Nevada (774) and South Dakota (780) contain evidences of the tendencies of the present day progress. The establishment of the state board of examiners in North Carolina (777), the amended act in Ohio (779) relative to the granting and revocation of teachers' certificates, the Washington act (786) creating city boards of examiners, and the amended Wyoming act (788), relative to the state board of examiners, may be regarded as the more important enactments of this group.

759. **Alabama:** Repealing sec. 16, act No. 395, p. 217, Laws, 1899, as amended by act No. 316, p. 114, Laws, 1901 (act No. 393, p. 300, Laws, 1903), relative to a uniform system for examination and licensing of teachers of the public schools.

Removing prohibition that teachers shall not be granted second-grade certificates more than twice.

Act No. 343, p. 452, Mar. 18, 1907.

760. **Alabama:** Amending sec. 17, act No. 395, p. 217, Laws, 1899, as amended by act No. 316, p. 114, Laws, 1901, relative to a uniform system for examination and licensing of teachers of public schools.

After six years (formerly ten) in teaching under first-grade certificates, teachers may be granted life certificates.

Act No. 361, p. 483, July 17, 1907. (Sec. 1741, Code, 1907.)

761. **Arizona:** Amending par. 2238 (sec. 108, chap. 12, tit. 19), Revised Statutes, 1901, relative to teachers' certificates.

Providing that holders of Arizona Normal School or life diplomas, upon the presentation thereof, may be absolved from the requirement of filing certificate with county superintendent.

Sec. 3, chap. 67, Mar. 21, 1907. (July 1, 1907.)

762. **Arizona:** Amending par. 2144 (sec. 15, chap. 2, tit. 19), Revised Statutes, 1901, relative to territorial board of examiners.

Providing for the payment of a fee of \$2 for the issuance of certificates to holders of state normal school and life diplomas of other States.

Sec. 12, chap. 67, Mar. 21, 1907. (July 1, 1907.)

763. **Arizona:** Repealing subdiv. 4, par. 2149 (sec. 20, chap. 4, tit. 19), Revised Statutes, 1901, relative to duties of county superintendents with respect to teachers' examinations.

Providing for the collection of an examination fee of \$2 from applicants. Superintendents violating rules established for conducting examinations of teachers, guilty of misdemeanor.

Sec. 15, chap. 67, Mar. 21, 1907. (July 1, 1907.)

764. **Idaho:** Amending sec. 4, p. 86, Laws, 1899 (sec. 1009, Pollard Code, 1901), as amended by p. 83, Laws, 1905, relative to state certificates and diplomas.

Increasing term of validity of state certificates from five to eight years.

H. B. No. 111, p. 56, Feb. 22, 1907.

765. **Indiana:** See enactment No. 922.

766. **Iowa:** Amending sec. 2629, Code Supplement, 1902, relative to the board of educational examiners.

Minor amendment regarding the persons to conduct examinations.

Sec. 2, chap. 6, Apr. 4, 1907.

767. **Iowa:** Amending sec. 2631, Code, 1897, relative to state certificates and diplomas.

Reducing fee for state certificates from \$3 to \$2. Striking out clause concerning return of fees to applicants failing in examination.

Sec. 3, chap. 6, Apr. 4, 1907.

768. **Kansas:** Repealing, and reenacting with amendments, secs. 3 and 4, chap. 424, Laws, 1903, relating to county boards of examiners and providing for professional certificates to be issued by county boards of examiners.

Modifying period of validity of different grades of certificates. Minor changes concerning the granting of professional certificates.

Chap. 341, Mar. 9, 1907.

769. **Kentucky:** See enactment No. 909.

770. **Mississippi:** Authorizing the state board of examiners in cases where examination papers of teachers have been destroyed by the burning of the court-house to transfer their licenses to other counties; and authorizing the granting of a state license to teachers of such counties, exempt from examination, where their examination papers have been burned.

Chap. 133, Mar. 21, 1908.

771. **Mississippi:** Amending sec. 4555, Code, 1906, relative to the issuance of professional teachers' licenses.

Adding physics to the list of examination subjects.

Chap. 201, Feb. 14, 1908.

D 772. **Mississippi (1908):** Code, 1906, sec. 4539, provides that school examinations shall be held on questions prepared by the state superintendent of education and sent sealed to the county superintendent, to be opened by him in the presence of the teachers, after they have assembled, and after the seals have been inspected by the examiners; and sec. 4546 provides that any person who sells or offers to sell or give away the examination questions or answers to the same prepared by the proper authorities for the examination of teachers of public schools, before the date of the examination, shall be guilty of a misdemeanor. *Held*, that a conviction for offering to sell examination questions under such sections could not be sustained where the proof did not show that the questions offered for sale were prepared by the state superintendent of education and sealed and sent to the county superintendent of education, as provided.—*Bryant v. State*, 46 So., 247.

773. **Nebraska:** See enactment No. 922b.

774. **Nevada:** See enactment No. 29.

D 775. **New York (1905):** Laws, 1901, p. 1774, chap. 718 (revised amended Greater New York charter, sec. 1089), declaring that at the close of the third year of continuous successful service of a teacher the city superintendent may make a temporary license permanent, does not require the superintendent to make a license permanent under such circumstances.—*People v. Board of Education of City of New York*, 94 N. Y. S., 61; 106 App. Div., 101.

Under Laws, 1901, p. 1774, chap. 718 (revised amended Greater New York charter, sec. 1089), providing that at the close of the third year of continuous successful service of a teacher the city superintendent may make a temporary license permanent, the issuance of a special license to a teacher who has served three years under a temporary license is not a determination by the superintendent that the teacher is entitled to a permanent license.—*Ibid*.

D 776. **New York (1905):** Laws, 1892, p. 1485, chap. 677, sec. 24 (statutory construction law), as amended by Laws, 1897, p. 759, chap. 614, sec. 1, declaring that Saturday afternoon shall be deemed a public half holiday "for all purposes whatsoever as regards the transaction of business in the public offices of this State or counties of this State," does not, as construed by the court of appeals, prohibit an officer from voluntarily performing an official act on public holidays, or render such act void or voidable, unless it is such as to create an unlawful preference under the recording act, or is prohibited by some other statute. Ordinance City of Buffalo, chap. 3, sec. 20, provides that all offices in all departments and bureaus of the city government shall be open for the transaction of business on every day, excepting Sundays and holidays, from 8.30 o'clock a. m. until 4.30 o'clock p. m., and excepting on Saturday, when the same shall be open from 8.30 o'clock a. m. until 12 o'clock m. *Held*, that in view of such construction of the statute, the city board of school examiners were not prohibited under the ordinance from continuing beyond noon of Saturday an examination of applications for positions as public school teachers.—*John v. Townsend*, 94 N. Y. S., 817.

The courts have no power to control the exercise of the judgment and discretion reposed by law in an executive officer as part of his official functions, and hence can not control the action of the board of school examiners of a city as to fixing the day for holding teachers' examinations, or as to granting special examinations to persons observing Saturday as a Sabbath.—*Ibid*.

777. **North Carolina:** Amending sec. 4102, chap. 85, Revised, 1905, relative to teachers' certificates.

Providing for state certificates and prescribing the conditions therefor. Creating state board of examiners and prescribing composition, compen-

sation, and duties. Providing that teachers holding state certificates shall be paid minimum salary of \$30 per month.

Sec. 11, chap. 835, Mar. 9, 1907.

778. **North Carolina:** Amending sec. 4163, chap. 85, Revisal, 1905, relative to qualifications of teachers.

Inserting provision relative to recognition of state certificates.

Sec. 11, chap. 835, Mar. 9, 1907.

779. **Ohio:** Repealing, and reenacting with amendments, secs. 4073 and 4081, Revised Statutes (1905), relative to the granting and revocation of teachers' certificates, age limit, and hearing on revocation of certificates in counties and in city school districts.

Minor modifications of the conditions of renewal of certificates without examination. Professional certificates—i. e., those issued for five or eight years—to be valid in any county in the State; when granted by a city board of examiners, in any city in the State. Providing for certificates without formal examination, except in theory and practice of teaching and in the science of education, to graduates of schools for training of teachers and colleges and universities. Providing also for temporary certificates.

H. B. 453, p. 350, May 9, 1908.

780. **South Dakota:** See enactment No. 100.

- D 781. **Texas (1906):** In prosecution for fraudulently using questions prepared by the state superintendent of public instruction for the examination of teachers for certificates, evidence examined, and held insufficient to sustain a conviction.—*Felder v. State*, 97 S. W., 701; *Fulson v. Same*, 98 S. W., 853.

Evidence held insufficient to sustain a conviction for fraudulently procuring and using questions prepared by the superintendent of public instruction for teachers' examinations.—*Felder v. State*, 97 S. W., 701.

An instruction authorizing a conviction of defendant if he unlawfully procured and used the questions prepared by the superintendent of public instruction for teachers' examinations was erroneous for failure to charge that the questions must have been fraudulently used.—*Ibid.*

Acts, twenty-ninth legislature, p. 290, chap. 124, sec. 124a, making it a penal offense for an applicant for a teacher's certificate, prior to examination, to procure or fraudulently use the questions previously prepared by the state superintendent to be used in the examinations, is not invalid because it does not eliminate in terms county superintendents of public instruction and boards of examiners from having and using the questions prepared by the superintendent of public instruction.—*Felder v. State*, 97 S. W., 701.

- D 782. **Texas (1906):** Acts, twenty-ninth legislature, p. 290, chap. 124, sec. 124a, making it a penal offense for an applicant for a teacher's certificate, prior to an examination, to procure or use the questions previously prepared by the state superintendent and forwarded to the board of examiners, to be used by them in examination, is included in the title to the act, which is, "Schools—providing for a complete system of public free schools in Texas," and in the phrase in the caption, "providing for board of examiners and the issuance of teachers' certificates," and is in compliance with constitution, art. 3, sec. 35, relating to the title and caption of acts.—*Felder v. State*, 97 S. W., 701.

783. **Vermont:** Amending sec. 600, Statutes, 1894, as amended by sec. 6, act No. 10, Acts, 1890, and by sec. 7, act No. 25, Acts, 1902, relative to the issuance of teachers' certificates.

"Sec. 600. A certificate which shall be valid until revoked by the officers granting the same may be issued by the concurrent action of the superintendent of education and the examiner of teachers in the county where the teacher last taught, to a person who has taught in the public schools five hundred weeks; or to a person who is a graduate of an approved college and who has devoted at least eight years to teaching



in or superintending public schools in the State; also to a person who has taught in the public schools of the State for two hundred weeks, and has held certificates of the first grade for ten years, or certificates of the first and second grades for twelve years, or certificates of the second or third grade, or their equivalents, for fourteen years, provided that in no case special certificates are included."

Act No. 47, Nov. 9, 1906.

784. **Washington:** Amending sec. 2407, Annotated Codes and Statutes, 1897, relative to the classification and issuance of teachers' certificates.

Providing for permanent certificates under specified conditions to holders of certain certificates. Providing also for the issuance of temporary certificates by the superintendents of schools of certain cities.

Chap. 58, Mar. 4, 1907.

785. **Washington:** Providing for the holding of state certificates and life diplomas.

Chap. 81, Mar. 7, 1907.

786. **Washington:** Relative to the certification of teachers in cities employing 400 or more teachers in the public schools thereof.

Creating a city board of examiners, prescribing their powers and duties, and the conditions for granting the several grades of certificates.

Chap. 230, Mar. 18, 1907.

787. **Washington:** Amending sec. 139 (Code of Public Instruction), relative to the issuance of state certificates without examination.

Sec. 12, chap. 240, Mar. 18, 1907.

- 788\*. **Wyoming:** Amending and reenacting sec. 620, Revised Statutes, 1890, as amended by sec. 3, chap. 90, Laws, 1903, relative to a state board of examiners. Repealing sec. 631, Revised Statutes, 1890, as amended by sec. 4, chap. 67, Laws, 1901, relating to the examination of teachers.

Providing for the issuing of teachers' certificates by state superintendent of public instruction; also for the compensation of the members of the state board of examiners.

Providing that state board of examiners shall recommend annually list of books for the state reading circle, for teachers and list of books suitable for general reading by pupils.

Repealed sections relate to conduct of teachers' examinations and the issuing of certificates by county superintendent.

Chap. 65, Feb. 16, 1907.

#### (c) Teachers' examinations and certificates: Special.

Aside from the two Wisconsin amendments (795) and (796), the enactments of this group contain nothing of large interest.

789. **Kansas:** Authorizing county superintendents to issue temporary teachers' certificates.

Certificates to be valid until next quarterly examination.

Chap. 342, Mar. 7, 1907.

790. **Vermont:** Amending sec. 1, act No. 33, Acts, 1904, relative to the issuance of special teachers' certificates.

Sec. 1, act No. 43, Dec. 18, 1906. (Apr. 1, 1907.)

791. **Vermont:** Amending sec. 1, act No. 24, Acts, 1898, as amended by sec. 1, act No. 26, Acts, 1900, relative to the issuance of special certificates to kindergarten and primary teachers.

Sec. 2, act No. 43, Dec. 18, 1906. (Apr. 1, 1907.)

792. **Vermont:** Amending sec. 662, chap. 35, Statutes, 1894, as amended by sec. 3, act No. 20, Acts, 1898, and by sec. 8, act No. 25, Acts, 1902, and by sec. 1, act No. 35, Acts, 1904, relative to discretionary permits to teach.  
Giving discretionary power to county examiner in the issuance of permits to teach based upon examinations by town superintendents.  
Act No. 48, Nov. 7, 1906.
793. **Washington:** Amending sec. 51, chap. 118, Laws, 1897 (Code of Public Instruction), relative to qualification of teachers.  
Providing for recognition of temporary certificates granted by certain city superintendents.  
Sec. 6, chap. 240, Mar. 18, 1907.
794. **Washington:** Amending sec. 137 (Code of Public Instruction), relative to teachers' diplomas and certificates.  
Providing for the issuance of temporary certificates by superintendents of city schools in certain instances.  
Sec. 11, chap. 240, Mar. 18, 1907.
795. **Wisconsin:** Amending sec. 458g, Statutes, 1898, and sec. 1, chap. 69, Laws, 1903, and making the said sec. 458g, Statutes, 1898, relative to legal qualifications of kindergarten teachers.  
Giving diplomas from normal kindergarten training schools value as certificates to teach in the first three years of the primary grades. Construing "primary grade" as in sec. 1, chap. 248, Laws, 1905.  
Chap. 317, June 21, 1907.
796. **Wisconsin:** Repealing, and reenacting with amendments, secs. 458a, 458b, 458d, 458g, and 458h, Statutes, 1898, as amended by chap. 171, Laws, 1901, and sec. 1, chap. 64, Laws, 1903, relative to the granting of state teachers' certificates and licenses by the state superintendent of public instruction.  
Providing for two years' successful teaching experience within the State as a condition for the issuance of unlimited state certificates to holders of state certificates granted in other States; providing also for special temporary licenses in such cases.  
Providing for licenses and state certificates after one year of successful experience to graduates of kindergarten training, or manual training, and of domestic-science courses of normal schools, to graduates of the full and elementary courses of the state normal schools, and to graduates of the University of Wisconsin. University and normal-school diplomas no longer to be countersigned by state superintendent.  
Chap. 570, July 12, 1907.

(d) Teachers' certificates: Validity; indorsement; registration; revocation.

The enactment in Iowa (798) relative to the validation of teachers' certificates issued in other States is of interest in connection with the developing movement for increased reciprocity and a juster comity between States in the matter of the certification of teachers. The step taken by North Dakota (802), for the very evident protection of school boards from teachers willfully violating contracts, reflects in a striking way both ethical and economic circumstances. This enactment is similar in intent to those of Oklahoma and Oregon in 1905. The decision in the case of *Stone v. Fritts*, in Indiana (D'797), may be regarded as one of the most interesting of the recent interpretations of the legal aspects of the issuance and revocation of teachers' certificates.

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D 797. **Indiana (1907):** "The statute authorizing the granting of a license to teach in a public school may provide for its revocation under designated contingencies.—*Stone v. Fritts*, 82 N. E., 792.

Burns's Ann. Stat., 1901, sec 5905f, authorizing the county superintendent of schools to revoke teachers' licenses, *held* to justify the superintendent to revoke only for the statutory causes, and if he acts on other grounds, equity may intervene.—*Ibid*.

The utmost the holder of a teacher's license may ask, as to proceedings to revoke the license, is that they shall conform to the law authorizing revocation.—*Ibid*.

Where a county superintendent has jurisdiction of a proceeding to revoke a teacher's license, his bias and want of judicial capacity are not grounds for interference by the courts.—*Ibid*.

798\*. **Iowa:** Empowering the board of educational examiners to validate teachers' certificates issued in other States.

Requirements for such certificates must be equal to requirements imposed within the State.

Chap. 149, Feb. 23, 1907.

799. **Michigan:** Amending sec. 15, act No. 194, Acts, 1889 (sec. 1826, Compiled Laws, 1897), relative to life certificates to teach.

Minor provision concerning indorsement of certificates from other States.

Act No. 125, June 5, 1907.

800. **Michigan:** Amending sec. 7, act No. 147, Acts, 1891 (sec. 4814, Compiled Laws, 1897), relative to the suspension and revocation of teachers' certificates.

Providing for procedure in revoking certificates by board of school examiners and for temporary suspension of certificate by county commissioner of schools. Providing also for appeal to probate court.

Sec. 1, act No. 127, June 5, 1907.

801. **Montana:** Amending sec. 1520, Political Code, 1895, relative to the revocation of state and life diplomas by the state superintendent of public instruction.

Providing for revocation for any cause that would require the state board of education to refuse to grant it if known at time diploma was granted. Providing for the issuance of temporary state certificates by state superintendent.

Chap. 9, Feb. 8, 1907.

802. **North Dakota:** Amending sec. 872, Revised Codes, 1905, relative to examinations and certificates of teachers.

Providing for revocation of certificate of teacher willfully violating contract with school board.

Chap. 104, Mar. 12, 1907.

803. **Oklahoma:** Relative to teachers' certificates.

Designating conditions of validity, indorsement, and revocation.

Chap. 77, H. B. 46, p. 668, Mar. 20, 1906.

804. **Vermont:** Amending sec. 4, act No. 25, Acts, 1902, relative to special teachers' certificates.

Authorizing issuance by examiner of teachers of special third instead of special second grade certificates to holders of certificates from other States. Adding provision that a "second special third grade certificate shall not be issued until the applicant has received another first or second grade certificate issued on examination."

Sec. 2, act No. 44, Nov. 8, 1906.

\* See "Recent decisions," at the close of this bulletin, for complete text of decision.

805. **Vermont:** Amending sec. 657, Statutes, 1894, as amended by sec. 5, act No. 25, Acts, 1902, relative to the continuance of teachers' certificates.  
Sec. 1, act No. 47, Nov. 9, 1906.
806. **Washington:** Amending secs. 144 and 145 (Code of Public Instruction), relative to renewal of teachers' certificates.  
Secs. 14 and 15, chap. 240, Mar. 18, 1907.
807. **Wisconsin:** Amending sec. 450a, Statutes, 1898, as created by sec. 2, chap. 439, Laws, 1901, relative to examinations and to transfer and renewal of teachers' certificates.  
Chap. 445, June 27, 1907. (July 1, 1907.)

(c) Teachers' certificates; recognition of normal school and college or university diplomas.

The enactments giving certification values to normal school and college or university diplomas are in accord with well-established educational practice. The enactments in Iowa (815), Kansas (816), Louisiana (818), Maryland (819), Nebraska (821), Ohio (822), Texas (823), and West Virginia (826-828) are representative.

The action taken by the State of Illinois (810-813), granting to the normal schools of the State the right to confer degrees, is not without great significance to all those who discern possible grounds of controversy between normal schools and universities in the matter of the training of teachers, especially for secondary schools.

808. **Arkansas:** See enactment No. 903.

809. **Idaho:** Empowering state board of education to authorize county superintendents to grant teachers' certificates to graduates of state normal schools and to graduates of colleges and universities.  
Requiring, in addition, successful teaching experience of twenty-seven months.

H. B. No. 202, p. 255, Mar. 12, 1907.

810\*. **Illinois:** Amending sec. 6, p. 299, Acts, 1857, providing for the establishment and maintenance of a normal university.

Adding provision empowering the board of education, upon recommendation of the faculty, to issue diplomas and confer professional degrees.

S. B. 300, p. 527, June 1, 1907.

811\*. **Illinois:** Amending sec. 12, p. 63, Acts, 1895, relative to the establishment and maintenance of the Eastern Illinois State Normal School.

Adding provision empowering board of trustees, on the recommendation of the faculty, to issue diplomas and confer professional degrees.

"And the said board shall have the further power, on recommendation of the faculty of said Eastern Illinois State Normal School, to issue diplomas to such persons as shall have satisfactorily completed the required studies, and to confer such professional degrees as are usually conferred by other institutions of like character for similar or equivalent courses of study."

S. B. 452, p. 522, June 1, 1907.

812\*. **Illinois:** Amending sec. 42, p. 71, Acts, 1895, relative to the establishment and maintenance of the Northern Illinois State Normal School.

Adding provision empowering board of trustees, on the recommendation of the faculty, to issue diplomas and confer professional degrees.

S. B. 454, p. 524, June 1, 1907.

813. Illinois: Amending sec. 12, Acts, 1869, relative to the establishment and maintenance of the Southern Illinois Normal University.

Adding provisions empowering board of trustees, upon recommendation of faculty, to issue diplomas and confer professional degrees.

S. B. 455, p. 527, June 1, 1907.

- D 814. Indiana (1908): An act approved March 7, 1905 (Acts, 1905, p. 492, sec. 1; Burns' Ann. Stat., 1905, sec. 5902a), provides that no person shall be eligible to the office of county superintendent of schools unless he shall hold a thirty-six months' license, a sixty months' license, or a life or professional license to teach in the common schools of the State. The act concerning common schools, approved March 6, 1899 (Acts, 1899, p. 488, chap. 214, sec. 1; Burns' Ann. Stat., 1901, sec. 5905b), provides for the issuance of a thirty-six months' license and a sixty months' license by the state superintendent of public instruction. The act of 1899 (Acts, 1899, p. 243, chap. 143, sec. 7; Burns' Ann. St., 1901, sec. 5905a) provides for the issuance of a professional license on such examination held by the county superintendent as may be prescribed by the state board of education, and that such license shall issue only on the approval of the state board. The school law of 1865 (Acts, 1865, p. 34, chap. 1, sec. 155; Burns' Ann. Stat., 1901, sec. 5851) provides for the issuance of state certificates of qualification by the state board of education, which shall entitle the holders to teach in any of the schools of the State without further examination and be valid during the lifetime of the holders. The act approved March 5, 1873 (Acts, 1873, p. 199, chap. 86, sec. 3; Burns' Ann. Stat., 1901, sec. 6049), in amendment of and supplemental to the original act creating the State Normal School, authorizes the board of trustees to grant certificates of proficiency to teachers completing the prescribed courses of study, and provides that two years after graduation, satisfactory evidence of professional ability to instruct having been received, such teachers shall be entitled to diplomas appropriate to such professional degrees as the trustees shall confer on them, which diplomas shall be considered sufficient evidence of qualification to teach in any of the schools of the State. *Held*, that a post-graduate diploma, granted pursuant to the act approved March 5, 1873 (Acts, 1873, p. 199, chap. 86; Burns' Ann. Stat., 1901, sec. 6049), to a graduate of the State Normal School of two years' standing, was not a life license within the act approved March 7, 1905 (Acts, 1905, p. 492, chap. 163, sec. 1; Burns' Ann. Stat., 1905, sec. 5902a).—Benham v. Bradt, 84 N. E., 1084.

815. Iowa: Empowering state board of educational examiners to issue state certificates to graduates of higher institutions of learning.

Certificates to be issued upon evidence of fitness required by sec. 2029, Code Supplement, 1902; valid for five years; renewed. (Additional to chap. 2, tit. 13, Code, 1897, and chap. 122, Laws, 1906.)

Chap. 148, Apr. 13, 1907.

816. Kansas: Relative to qualifications of teachers in common school districts employing ten or more teachers.

Providing for examining committee and prescribing qualifications of teachers. "And no person except one who holds a diploma or a certificate from the state board of education or a diploma from the state normal school shall be elected by such [district] board as a teacher who can not produce a certificate from the examining committee, and setting forth that such person is competent to teach in such department of said school as may be stated in the certificate and is a person of good moral character; and provided, that a person holding such state diploma, state certificate or state normal school certificate or a certificate granted by the aforesaid examining committee shall not be required to take any county teachers' examinations."

Chap. 340, Mar. 9, 1907.

817. Louisiana: Fixing the status of diplomas and degrees granted by the Louisiana State University and Agricultural and Mechanical College.

Entitling holders to same rights, immunities, and privileges in the State as holders of diplomas and degrees of any other institution of learning whatsoever.

Act No. 93, July 1, 1908.



818. **Louisiana:** Amending and reenacting sec. 59, act No. 214, Acts, 1902, as amended by act No. 133, Acts, 1906, relative to the recognition of certain diplomas as teachers' certificates.

Providing for recognition of diplomas of Teachers' College, Tulane University, and of teachers' training departments having an approved curriculum.  
Act No. 174, July 3, 1908.

819. **Maryland:** Adding sec. 122E, Public General Laws, 1904, relative to the granting of teachers' certificates to holders of diplomas from approved colleges and universities.

Chap. 636, p. 228, Apr. 6, 1908. (Aug. 1, 1908.)

820. **Michigan:** Amending sec. 1, No. 126, Acts, 1893 (sec. 4805, Compiled Laws, 1897), relative to granting of teachers' certificates.

Empowering state board of education to grant teachers' certificates (formerly "shall grant") without examination to holders of bachelors', masters', or doctors' degrees from four-year colleges in State. Prescribing, in addition to the previous requirement of instruction in science and art of teaching, that such students "shall have had opportunity for observation of the actual work done in the grades of and high schools of public schools." Amendment of certificate by state board of education only for cause after a personal hearing of the case.  
Act No. 112, May 28, 1907.

821. **Nebraska:** Repealing and reenacting with amendments secs. 11141, 11142, 11143, 11144, and 11145, and repealing sec. 11140, chap. 51, Cobbey's Annotated Statutes, 1903, relative to state teachers' certificates.

Providing that colleges or universities in the State shall from year to year maintain entrance requirements, degree requirements, and professional study requirements equivalent to those of the University of Nebraska before graduates shall be entitled to receive certificates to teach. State superintendent of public instruction to satisfy himself by personal inspection or by personal inspection of the state board of examiners for life certificates that said requirements have been maintained. Providing for signing of certificates by authorities of institutions. All such certificates subject to the provisions for lapsing prescribed in sec. 11114c, Cobbey's Supplement, 1905.

Making similar provisions for the recognition of the graduates of colleges, universities, and normal schools maintaining courses equivalent to the courses given in state normal schools. Provisions concerning inspection, entrance requirements, and so on.

Prescribing sundry other conditions for institutions designated.

Chap. 123, Apr. 8, 1907.

822. **Ohio:** See enactment No. 779.

823. **Texas:** Validating the diploma of the "Texas Industrial Institute and College for the Education of White Girls of the State of Texas in the Arts and Sciences," as a first grade state teacher's certificate; providing for the validation or extension of such diploma as a permanent state teacher's certificate; and authorizing school trustees to employ the holders of such diplomas as teachers, and to pay them from the state, county, and local funds.

Chap. 68, Apr. 5, 1907.

824. **Utah:** Amending sec. 3, chap. 71, Laws 1905, relative to the issuance of teachers' temporary certificates by the state board of education.

Permitting board to grant certificates valid for two years, without examination, to graduates of normal training schools of high standard.

Chap. 42, Mar. 14, 1907.

825. **Washington:** See enactment No. 112.



826. **West Virginia:** Amending and reenacting sec. 85, chap. 45, Code, 1906, relative to the West Virginia University and the value of a diploma issued from said institution.

Giving to such diploma a value equivalent to a first-grade certificate for a period of five years. "Provided, that the person obtaining such diploma shall have completed not fewer than six courses in the department of education of said institution."

Chap. 24, Feb. 11, 1908.

827. **West Virginia:** Amending and reenacting sec. 58, chap. 45, Code, 1906, relating to the state normal school and its branches and the value of a diploma issued therefrom.

Diploma to be equivalent to first-grade certificate for a period of five years; graduates of branch normal schools to have same rights and privileges as graduates of Marshall College (West Virginia State Normal School).

Chap. 24, Feb. 14, 1908.

828. **West Virginia:** Amending and reenacting subsec. 11, sec. 98b, chap. 45, Code, 1906, relative to the West Virginia colored institute.

Providing for diplomas for pupils completing course of study in the normal department. Diploma equivalent to first-grade certificate in duplicate for a period of five years.

Chap. 25, Feb. 25, 1908

#### (f) Teachers' Associations.

829. **Wisconsin:** Amending sec. 335e, Statutes, 1898, as amended, relating to printing the proceedings of the Wisconsin Teachers' Association. 3,000 [formerly 1,500] copies of proceedings to be printed.

Chap. 184, June 6, 1907.

### F. TEACHERS: EMPLOYMENT, ETC.

#### (a) Employment; contract; appointment; dismissal.

The enactments grouped under this heading vary apparently in wide degree as to their aim, yet all possess the common characteristic which justifies their classification in this manner. The amendment in Alabama (830) as to the contracts of teachers is typical of a movement wherever the county has become the unit of school organization and a county board of education organized. The legislative sanction for the extension of the tenure of office of principals and superintendents in Missouri (843) is one that will admit of imitation throughout the country. The provision of the Louisiana (838) amended statute providing that the marriage of a woman teacher at any time shall *ipso facto* vacate her position, will be read with interest in connection with the former decision of the New York court of appeals, to which reference is made in New York (847). Michigan (841) followed the example of Massachusetts by enacting a measure establishing a bureau of information and employment for school officers and teachers. Massachusetts (840) amended her original act

upon this topic so as to remove the requirement for the payment of a registration fee.

The North Carolina (850) provision relative to the dismissal of teachers without hearing, and the Maryland decision (D839), will have a wholesome result in establishing more reasonable relations between employing boards and employed teachers. The decisions in California (D884), Indiana (D836, D837), and Illinois (D835), offer interesting commentaries upon some current practices.

830. **Alabama:** Amending sec. 9, act No. 365, p. 290, Laws, 1903, providing for the redistricting and management of the public schools.

Providing that teachers' contracts shall be made by county board of education upon nomination of district trustees. County board of education to perform duties of district trustees whenever latter fail to act.

Sec. 2, act No. 358, p. 478, July 17, 1907. (Sec. 1690, Code, 1907.)

D 831. **Alabama (1906):** As sec. 10 of the act (Laws, 1903, p. 292) makes it the duty of the district trustees to employ teachers subject to the approval of the county board, sec. 11 does not deprive the trustees of the right to employ a teacher subject to such approval, nor authorize the board to employ one.—Gibson v. Mabrey, 40 So., 297.

D 832. **California (1904):** Under Stat., 1907, p. 621, chap. 15, art. 9, sec. 5, authorizing the board of education of a city to employ, pay, and dismiss teachers, and sec. 14, p. 624, of said article, providing that teachers elected to permanent positions, who are reported upon favorably by a majority of the committee on classification, shall retain their positions for the ensuing year without reelection, and shall be removed only for cause; the board of education has the right to remove any teachers, including those elected to permanent positions, at will, except such teachers holding permanent positions as have been favorably reported upon by the committee on classification.—Stockton v. Board of Education of City of San Jose, 78 P., 730; 145 Cal., 246.

Nor does the further provision of sec. 5 of said article and act to the effect that no election of a teacher shall be construed as a contract, either as to the duration of time or amount of wages, give the teacher any great right or security from removal, but the object of such provision is to protect the city against a claim that a teacher is entitled to serve for any particular time or at any particular compensation.—*Ibid.*

Under Stat., 1907, pp. 621, 624; chap. 15, art. 9, secs. 5 and 14, empowering the board of education of a city to dismiss teachers, but providing that teachers elected to permanent positions and reported upon favorably by a majority of the committee on classification shall be removed only for cause, any irregularity in the proceedings of the classification committee can not avail a teacher who has not been favorably reported by that committee, in proceedings to regain her position.—*Ibid.*

D 833. **California (1905):** Under Pol. Code, secs. 1791, 1793, and the charter of San Francisco, the board of education may investigate charges and remove a teacher thereon, although such charges are not preferred by the superintendent.—McKenzie v. Board of Education of City and County of San Francisco, 82 P., 302.

D 834. **California (1907):** Where school trustees in their individual capacity agree with one to employ him as a teacher and afterwards in regular session as a board repudiate or disregard the agreement, such person is without redress, since the agreement was void, as against public policy.—McGinn v. Willey, 91 P., 423.

D 835. **Illinois (1906):** A contract between the board of education of a school district, authorized by 3 Priv. Laws, 1867, p. 321, to manage and control the common schools and employ and discharge teachers, and fix their salaries, and the state board of education, whereby the State Normal

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University is permitted to furnish teachers not having the usual legal qualifications for certain classes, and critic teachers are to be employed by the state board and public school board acting concurrently, who are paid in part by the school district, is void.—*Lindblad v. Board of Education of Normal School Dist.*, 77 N. E., 450; 221 Ill., 261, reversing judgment (1905), 122 Ill. App., 617.

D 836. **Indiana** (1904): Burns' Ann. Stat., 1901, sec. 5989a, provides that all contracts with school-teachers shall be in writing, and that no action shall be brought on any contract not made in conformity with the act. *Held* that, where services were rendered by a school-teacher under an oral employment, he could not recover therefor on a quantum meruit, notwithstanding the services were necessary, acceptable, and beneficial to the school corporation.—*Lee v. York School Tp. of Elkhart County*, 71 N. E., 956.

D 837. **Indiana** (1904): The provision of Burns' Ann. Stat., 1901, sec. 5989a (Acts Gen. Assem. 1899, p. 173, chap. 111), requiring all contracts for the employment of school-teachers to be in writing and signed by both parties, is mandatory.—*Taylor v. School Town of Petersburg*, 72 N. E., 159.

838. **Louisiana**: Amending and reenacting sec. 74, act No. 81, Acts, 1888, relative to free public schools in the city of New Orleans.

Teachers and principals now or hereafter employed to be considered permanent employees and removable only for cause: "Provided, That the marriage of a female teacher at any time shall *ipso facto* vacate her position."

Act No. 166, July 2, 1908.

D 839\*. **Maryland** (1906): Code Pub. Gen. Laws, 1904, art. 77, sec. 53, authorizes the board of school trustees to remove teachers at their election after notice in writing, giving, when required by the teacher so notified, the reasons for dismissal. *Held*, that letters notifying a teacher that the trustees believed it for the best interests of the school that her services be dispensed with did disclose the reasons for her dismissal and were insufficient.—*Underwood v. Board of County School Commissioners of Prince George County*, 63 A., 221; 103 Md., 181.

840. **Massachusetts**: Amending sec. 1, chap. 309, Acts, 1906, relative to the registration of teachers with the state board of education.

Removing requirement for payment of fee of two dollars.

Chap. 213, Mar. 16, 1907.

841. **Michigan**: Providing for the establishment in the office of the superintendent of public instruction of a bureau of information for the benefit of school officers, superintendents, and teachers.

Providing that teachers desiring employment may register in the bureau of information. Fee, \$1. Information bureau to be free to school officers, superintendents, and teachers. Recommendation of teacher not obligatory.

Act No. 251, June 27, 1907.

D 842. **Michigan** (1906): A provision in a contract between a school district and a teacher, authorizing the teacher's dismissal at any time on thirty days' notice, was not beyond the power of the district.—*Dees v. Board of Education of City of Detroit*, 109 N. W., 39; 146 Mich., 64; 13 Detroit Leg. N., 696.

843\*. **Missouri**: Amending sec. 9864, art. 2, chap. 154, Revised Statutes, 1890, relative to city, town, and village schools.

Providing that the board of directors of a city, town, or village school district by "unanimous vote may elect a principal or a superintendent for a term of two years, providing such principal or superintendent has previously been annually elected to said position and has served in said capacity for at least two successive years."

S. B. No. 164, p. 427, Mar. 28, 1906.

844. New Jersey: See enactment No. 344.

D 845. New York (1906): The board of education of the city of New York may dispense with the services of a teacher or any of its clerical force, if they are unnecessary, without the preferment of charges against the incumbent and without passing a resolution formally abolishing the position.—*People v. Board of Education of City of New York*, 99 N. Y. S., 737; 114 App. Div., 1.

D 846. New York (1906): Under Greater New York charter, Laws 1901, p. 483, chap. 466, sec. 1101, providing that all school officers or other employees appointed by the board of education before the act took effect should continue to hold their respective positions, etc., subject to change of title, etc., and subject to the right of the board of education to abolish unnecessary positions, the board has power, if a position becomes unnecessary, either to abolish it or to transfer the incumbent to some other position in the department; and hence the board had power, after creating the position of additional auditor, to remove an appointee thereto and transfer him to another department at a reduced salary, as fixed by the board of estimate and apportionment.—*People v. Board of Education of City of New York*, 99 N. Y. S., 737; 114 App. Div., 1.

D 847. New York (1906): The by-laws of the board of education of the city of New York provided that the marriage of a female teacher vacated her position and that she could be removed therefor. The attention of a teacher who had recently been married was called to this regulation by the principal of the school in which she was teaching, and also by the district superintendent. Upon their assurance that it would be necessary for her to do so, she resigned. *Held*, that such resignation was not obtained by fraud or duress, though the regulation in question was subsequently held by the court of appeals illegal and void.—*Grendon v. Board of Education of City of New York*, 100 N. Y. S., 253; 114 App. Div., 759.

D 848. New York (1907): The board of education of the city of New York may dispense with the services of a teacher or any of its clerical force, if they are unnecessary, without the preferment of charges against the incumbent and without passing a resolution formally abolishing the position. Order (1906) 99 N. Y. S., 737; 114 App. Div., 1, affirmed.—*People v. Board of Education of City of New York*, 80 N. E., 1116; 187 N. Y., 535.

D 849. New York (1907): The board of education of the city of New York appointed a teacher to the position of teacher in an evening school. The notice of appointment merely fixed the time of service. The teacher accepted the appointment. *Held*, that both parties entered into the contract with knowledge of the powers of the board, and the teacher could not complain of the board reducing her compensation in the manner prescribed by its by-laws.—*Morris v. Board of Education of City of New York*, 104 N. Y. S., 949; 54 Misc. Rep., 605.

A teacher in an evening school is not a public officer, nor is he within Laws, 1900, p. 1605, chap. 751, fixing the minimum salary of a day school-teacher; but he is employed to perform services for such compensation as is fixed in the contract, and in the absence of any agreement as to compensation, he can only recover what his services are reasonably worth.—*Ibid.*

850. North Carolina: Amending sec. 4101, chap. 85, Revised, 1905, relative to the employment and dismissal of teachers.

Providing that school committee shall not dismiss teachers without hearing.  
Sec. 1h, chap. 835, Mar. 9, 1907.

851. North Dakota: Amending sec. 879, Revised Codes, 1905, relative to the opening and closing of school.

Requiring teachers to exhibit certificates to clerk of the district school board prior to receiving salary for the first month.

Sec. 7, chap. 95, Mar. 19, 1907.

D 852. Ohio (1904): Under Rev. Stat., sec. 4017, a board of education can not lawfully employ a teacher for a term which would expire after the term

of office of every member of the board employing him had expired by law.—Board of Education of Canton v. Walker, 72 N. E., 898; 71 Ohio St., 169.

853. **Virginia:** Repealing sec. 1500, Code, 1904, relative to employment of more than one teacher in district schools when enrollment reached 40 pupils.  
Chap. 396, Mar. 16, 1906.

(b) Teachers' Salaries.

The movement for better salaries through the provision of more adequate supporting funds, and through the establishment of minimum salary schedules, gains headway each biennium. The provision in California (855) fixing a minimum proportion of school funds to be applied exclusively for the payment of teachers' salaries, the revised minimum salary laws of Indiana (857), of Pennsylvania (869), and of West Virginia (54), and the new minimum salary schedules of Maryland (858) and North Carolina (777), will be noted as positive evidences of the current trend of this matter. It has been thought advisable to present in full the several minimum salary measures of Indiana in order to display the development of the idea in that State.

The provision of the revised school code of New Mexico (859) fixing a *maximum* salary for teachers presents a new aspect of the matter of compensation as it seems to have developed in some quarters. Undoubtedly this provision was rendered necessary by some peculiar local situation.

854. **Arizona:** Amending par. 2240 (sec. 110, chap. 12, tit. 19), Revised Statutes, 1901, relative to payment of teachers' salaries.

Providing that only holders of legal certificates or diplomas in force for the full term for which payment is demanded shall be entitled to the same. County superintendent made liable for illegal warrants.

Sec. 4, chap. 67, Mar. 21, 1907. (July 1, 1907.)

- 855\*. **California:** Amending sec. 1622, Political Code, 1906, relative to use of state and county school moneys for the payment of teachers' salaries.

Extending application of section to city boards of education; providing that 40 per cent only of county school money shall be used for purposes specified and all of state school money and at least 60 per cent of county school money shall be applied exclusively for the payment of teachers' salaries in primary and grammar schools.

Chap. 86, Mar. 5, 1907.

856. **Delaware:** See enactment No. 615.

- 857\*. **Indiana:** Classifying and regulating the minimum wages of teachers in the public schools.

"SECTION 1. *Be it enacted* \* \* \* That the daily wages of teachers for teaching in the public schools of the State shall not be less, in case of beginning teachers, than an amount determined by multiplying 24 cents by the general average given such teacher in his highest grade of license at the time of contracting. For teachers having had a successful experience for one school year of not less than six months, the daily wages shall not be less than an amount determined by multiplying 3 cents by the general average given such teacher on his highest grade of license

at the time of contracting. For teachers having had a successful experience for three or more school years of not less than six months each, the daily wages shall not be less than an amount determined by multiplying 34 cents by the general average given such teacher on his highest grade of license at the time of contracting. All teachers now exempt or hereafter exempt from examination shall be paid, as daily wages for teaching in the public schools, not less than an amount determined by multiplying 3 cents by the general average of scholarship and success given such teacher: *Provided*, That the grade of scholarship accounted in each case be that given at the teacher's last examination, and that the grade of success accounted be that of the teacher's term last preceding the date of contracting: *And, providing, further*, That 2 per cent shall be added to the teacher's general average of scholarship and success for attending the county institute the full number of days, and that said 2 per cent shall be added to the average scholarship of beginning teachers.

"Sec. 2. The qualifications required for teaching for the different classes shall be as follows:

"(a) A teacher without experience: Shall be a graduate of a high school or its equivalent. Shall have had not less than one term of twelve weeks' work in a school maintaining a professional course for the training of teachers. Shall have not less than a twelve months' license.

"(b) A teacher with one school year's experience: Shall be a graduate of a high school or its equivalent. Shall have had not less than two terms or twenty-four weeks' work in a school maintaining a professional course for the training of teachers or the equivalent of such work. Shall have not less than a two years' license. Shall have a success grade.

"(c) A teacher with three or more years' successful experience: Shall be a graduate of a high school or its equivalent. Shall be a graduate from a school maintaining a professional course for the training of teachers, or its equivalent. Shall have a three years' license or its equivalent. Shall have a success grade.

"*Provided*, That for teachers already in the service, successful experience in teaching shall be accepted as an equivalent for high school and professional training, as required by all the above classifications.

"Sec. 3. If any school officer shall pay to any teacher for school services at a rate less than that fixed by this act, he shall be fined in any amount not exceeding \$100 and shall be liable in a civil action for wages to such teacher at the rate provided in this act, which may be recovered by such teacher, together with an attorney's fee of \$25, in any court of justice of competent jurisdiction.

"Sec. 4. It shall be the duty of the state board of education, from time to time, to provide regulations which shall define the words 'high school' and 'equivalent' in this act, it being the intent hereof that only such schools be recognized as high schools as maintain a standard of scholarship and efficiency and course of study to the approval of the state board of education, and that the word 'equivalent' as used in this act shall mean such a course of study or training or the ability to pass such an examination as in the judgment of the state board of education would as fully qualify the applicant for teaching as the qualification of high school or normal school work and the license respectively named above requires."

Chap. 101, Mar. 2, 1907. (Aug. 1, 1908.)

\* For the purpose of exhibiting the development of the minimum salary law in Indiana, the original law of 1901, together with the law as modified in 1903, is also presented:

#### INDIANA MINIMUM SALARY LAW OF 1901.

SECTION 1. Be it enacted \* \* \*. That the daily wages of teachers for teaching in the public schools and attending county and township institutes shall not be less than an amount determined by multiplying 21 cents by the general average of scholarship and success given the teacher on his highest grade of license at the time of contracting: *Provided*, That only the general average of scholarship shall be used in determining the wages of beginning teachers.

Sec. 2. School officers who shall be adjudged guilty of violating any of the provisions of this act shall be fined in any amount not exceeding one hundred dollars (\$100) for each offense.

Chap. 245, Mar. 12, 1901.

(Footnote continued on succeeding page.)



858\*. **Maryland:** Adding sec. 122½, Public General Laws, 1904, relative to minimum salaries for public school teachers.

"SECTION 122½. That all white teachers holding a first-class teachers' certificate and having taught for a period of three years in any of the Public Schools of the State of Maryland, shall receive as a salary not less than \$350 per annum, and provided further that if such teacher holds a first-class certificate and has taught in the public schools of Maryland for a period of five years, he or she shall receive as a salary not less than \$400 per annum; and provided further that if a teacher holds a first class certificate and has taught in the public schools of Maryland for a period of eight years he or she shall receive as a salary not less than \$450 per annum, and provided that if a teacher holds a second class certificate and has taught in the public schools of Maryland for a period of eight years he or she shall receive as a salary not less than \$350 per annum and the County Commissioners of the several Counties shall levy a sufficient amount to meet the increase of salaries provided for in this Act."

Chap. 635, p. 226. April 6, 1908. (Aug. 1, 1908.)

859\*. **New Mexico:** Revising and systematizing the school laws.

"*Teachers' wages.*—From and after September 1, 1907, the maximum salary that shall be paid to any teacher employed to teach in the public schools in this Territory holding a certificate not higher than the third grade shall be fifty (\$50) dollars per month; the maximum salary that shall be paid to a holder of a certificate not higher than a second grade shall be seventy-five (\$75) dollars per month; *Provided*, That permits shall in no case be classed as higher than a third grade certificate, but if a holder of a permit shall secure a regular teachers' certificate during the term for which he is engaged, the salary for the entire term may be fixed in accordance with the grade of said certificate; *Provided, further*, That a teacher employed in any of the public schools of this Territory shall be entitled to full pay for a period not to exceed one month during which the school may be closed by the board of school directors, board of education, or board of health, on account of loss by fire, danger from contagious disease, or other similar cause; and that every teacher employed in the public schools of this Territory shall be entitled to full pay for every legal holiday that may occur during the school term on any regular school day, and for the entire period of the Christmas holiday vacation not to exceed fifteen days when such vacation shall occur during the school term covered by the contract. These provisions shall apply to the public schools in cities, towns, and villages as well as in rural districts. Any school director, member of board of education, or other person violating the terms of

(Footnote—Continued.)

#### INDIANA MINIMUM SALARY LAW AS MODIFIED IN 1903.

SECTION 1. *Be it enacted*, \* \* \* That the daily wages of teachers for teaching in the public schools of the State shall not be less in the case of beginning teachers than an amount determined by multiplying 2½ cents by the scholarship given said teacher on his highest grade of license at the time of contracting; and after the first school term of any teacher, said teacher's daily wages shall not be less than an amount determined by multiplying 2½ cents by the general average of scholarship and success given the teacher on his highest grade of license at the time of contracting; and after three years of teaching said wages shall not be less than an amount determined by multiplying 2½ cents by the general average of scholarship and success given the teacher on his highest grade of license at the time of contracting; *Provided*, That 2 per cent shall be added to a teacher's general average of scholarship and success for attending the county institute the full number of days and that said 2 per cent shall be added to the average scholarship of beginning teachers.

SEC. 2. All teachers now exempt, or hereafter exempt from examination, shall be paid as daily wages for teaching in the public schools of the State not less than an amount determined by multiplying 2½ cents by the general average of scholarship and success given said teachers; *Provided*, That the grade of scholarship counted in each case be that given at the teacher's last examination, and that the grade of success counted be that of the teacher's term last preceding the date of contracting.

SEC. 3. All school officers shall comply with the provisions of this act and shall pay the teachers employed by them no less than such an amount as shall be determined by sections 1 and 2 of this act. School officers who shall be adjudged guilty of violating any of the provisions of this act shall be fined in any amount not exceeding \$100 for such offense. The state superintendent of public instruction is hereby authorized to bring action against any school officer violating any of the provisions of this act.

Chap. 242, Mar. 11, 1903.

this Section shall, upon conviction in a court of competent jurisdiction, be fined in the sum not less than ten (\$10) dollars nor more than one hundred (\$100) dollars, or imprisonment for a term not less than ten days nor more than ninety days, and may be removed from office by proper procedure."

Sec. 26, chap. 97, Mar. 21, 1907.

D850. **New York (1906):** "Where teachers in a public school refuse to comply with the regulations forbidding the use of religious dress in the schools after notice thereof, they forfeit their right to further compensation under their contract of employment. - *O'Connor v. Hendrick*, 77 N. E., 612.

D851. **New York (1907):** Greater New York Charter, Laws, 1897, p. 392, chap. 378, sec. 1086, provided that all yearly contracts of school-teachers should be continued until the expiration of the yearly term named therein. Sec. 1091 (p. 394) continued the salaries as fixed and paid at the date of the consolidation of the different boroughs under the charter until new schedules should be adopted by the borough boards. Sec. 1117 (p. 404) provided that all public-school teachers in any part of the city of Greater New York should continue to hold their positions and be entitled to such compensation as was then provided by the various school boards, subject to reassignment or to removal for cause. Laws, 1900, p. 1607, chap. 754, sec. 1, amending its charter of 1897 (Laws, 1897, p. 394, chap. 378, sec. 1091), provided that no female teacher of a girls' graduating class should after ten years' service receive less than \$1,400 per annum. *Held* that, after ten years of service, a female teacher who taught a girls' graduating class, both before and after the consolidation, as well as at the time of the going into effect of chap. 754, became entitled by such act to a salary of \$1,400 per annum, and upon retirement to a pension of half that amount; and the fact that during part of the time she taught in connection with a graduating class a class not so far advanced did not affect her right. - *Moore v. Board of Education of City of New York*, 106 N. Y. S., 983.

862. **North Carolina:** See enactment No. 148.

863. **North Carolina:** See enactment No. 777.

864. **North Dakota:** Making an appropriation to pay school-teachers teaching under contract in school districts in unorganized territory, which school districts were not lawfully organized, and providing manner of submitting claims.

Appropriating \$1,000.

Chap. 101, Mar. 5, 1907.

865. **Ohio:** See enactment No. 1437.

866. **Ohio:** Repealing, and reenacting with amendments, sec. 4091, Revised Statutes (1905), relative to the compensation of teachers while attending county institutes.

Including superintendents of schools. Providing rate of compensation to be paid when institutes are held when schools are not in session.

H. B. 892, p. 471, May 9, 1908.

867. **Ohio:** Appropriating \$45,000 for assistance in the maintenance of weak school districts.

To make minimum salary law effective.

H. B. 1302, May 9, 1908.

D868. **Ohio (1901):** Where a board of education has employed teachers for the district for the next ensuing school year, and such teachers, during vacation and after their employment, attend the county institute during

\* See "Recent decisions," at the close of this bulletin, for complete text of decision.

the week, such board is authorized by Rev. Stat. 1906, sec. 4091, to pay them for the institute week as an addition to their first month's salary, as fixed by the terms of their employment, and at the same rate, on presentation of the certificates prescribed by said section.—*Reverstock v. Board of Education of Bowling Green City School Dist. of Wood County*, 78 N. E., 1007; 75 Ohio St., 144.

869. **Pennsylvania:** Fixing the salaries of common-school teachers, in districts receiving state appropriation, at no less than \$40 per month where teacher holds a provisional certificate, and at not less than \$50 per month in all cases where the teacher holds a professional, permanent, or normal-school certificate and has had two years' experience and obtained a certificate of proficiency in practice from the superintendent in charge of said teacher, and providing payment by the State for the increase in salary.

"SECTION 1. *Be it enacted, etc.* That from and after the passage of this act, the salary of common-school teachers, in districts of this Commonwealth receiving State appropriation, shall be no less than fifty dollars per month in all cases where the teacher holds a professional, permanent, or normal school certificate, and has had two years practice, and presents a certificate of proficiency in said practice, for said time, from the superintendent in charge of said teacher.

"SEC. 2. That the minimum salary shall be forty dollars for all teachers holding certificates of less grade than required under section one of this act. And that the State shall pay the amount of increase in all salaries that are provided for under this act, and over the amount of salary paid in each school district in this Commonwealth in one thousand nine hundred and six, and said increase shall be paid out of the increased appropriation for the common schools.

"SEC. 3. The president and secretary of school districts, where the prescribed salary is greater than that paid for the school year beginning June, one thousand nine hundred and six, shall certify under oath to the State Superintendent of Public Instruction, on blanks prepared by him, the number of teachers, with the salary paid to each, in one thousand nine hundred and six; the number of teachers, with the salary paid each, for the year for which the report is made; also the number of months in the school term for said year. In order that any district may participate in this additional appropriation its report must be filed in the Department of Public Instruction on or before the first Monday of October, one thousand nine hundred and seven, and at the same time annually thereafter. The total amount payable to all the school districts in the State, on account of the increase of teachers' salaries as provided for in this act, shall first be deducted from the total annual school appropriation, and the balance of said appropriation shall be apportioned and distributed among the several school districts, as provided for under existing laws. The State Superintendent of Public Instruction shall, at the usual time of paying the regular appropriation, pay to those districts, from the annual school appropriation, an excess equal to the difference between the salaries of the teachers for the school-year one thousand nine hundred and six and the minimum salaries prescribed by this act.

"SEC. 4. This act shall take effect the first of June, one thousand nine hundred and seven."

Amending act No. 118, Oct. 5, 1903.

Act No. 249, May 31, 1907. (June 1, 1907.)

D 870. **Pennsylvania (1908):** \* Act Feb. 12, 1889 (P. L. 150), creating the central board of education of Pittsburg, gives no power to such board to appoint a salary commission and delegate to it the power to examine teachers and fix their salaries.—*Houston v. Central Board of Education of Pittsburg (Pa.)*, 68 A., 1038.

871. **West Virginia:** See enactment No. 277.

\* See "Recent decisions," at the close of this bulletin, for complete text of decision.

## (c) Teachers' pensions.

No phase of the practical as well as the professional side of education seems to have received more widespread attention during the biennium than that of teachers' pensions. It has been thought desirable and advantageous to present in full a number of these new pension measures: both those relating primarily to certain cities, and those contemplating a state wide application. For purposes of general information, the incorporation of the existing retirement-fund law of New York City has been thought justified.

The enactments in Louisiana (877) and Massachusetts (878) relative to the benefits of the retiring fund of the Carnegie Foundation for the Advancement of Teaching are in all likelihood the forerunners of similar enactments in other States during the coming biennium.

872. Connecticut: Making appropriation for the Connecticut Teachers' Annuity Guild for the two years ending Sept. 30, 1909.

Special acts, No. 373, July 11, 1907.

873. Illinois: Providing for the contribution from interest on public school funds to the public school-teachers' and public school employees' pension and retirement funds in cities having a population exceeding one hundred thousand inhabitants.

Providing that interest contributed shall not exceed, in any year, one per cent of sums so levied for such purposes.

H. B. 842, p. 528, May 24, 1907.

874. Illinois: Providing for the formation and disbursement of a public school-teachers' pension and retirement fund in cities having a population exceeding one hundred thousand inhabitants.

"SECTION 1. *Be it enacted, etc.*, That hereafter in cities having a population exceeding 100,000 inhabitants, there shall be created, established and maintained, in the manner provided by this act, a public school-teachers' pension and retirement fund, under the management and control of a board of trustees, to be elected as hereinafter provided.

"SEC. 2. There shall, in every city in this State having a population exceeding 100,000 inhabitants, be elected a board of trustees to have the administration and control of a public school-teachers' pension and retirement fund, to be created and maintained in the manner provided by this act. Such board of trustees shall consist of nine members, who shall each hold office until his successor is elected as herein provided. The secretary of the board of education of such city shall be *ex officio* a member of said board of trustees; in addition thereto there shall be elected annually at the first meeting of the board of education in the month of October of each year from said board two of its members to said board of trustees; and on the date of the first meeting of the said board of education held in October, A. D., 1907, there shall be elected six members to said board of trustees from the teachers' force employed in said city; two for the term of one year, two for the term of two years and two for the term of three years, and on the date of the first meeting of said board of education in the month of October of each year thereafter there shall in like manner be elected two members to said board of trustees, who shall hold their office for a term of three years. The election of the members of said board of trustees by the board of education shall be by a majority vote in such manner as they, the board of education, shall provide. The election of the members to said board of trustees by the teaching force of such city shall be by ballot at an election held by the board of education, which shall conform as near as may be to the provisions of the law in relation to school elections, and each person being a member of the teach-



ing force of such city, and a contributor to said pension and retirement fund shall be entitled to cast, at such election, one vote for each trustee to be elected. Elections to fill vacancies may be held and called by the board of education at the annual election: *Provided*, that the board of education may fill vacancies occurring in the membership of said board of trustees elected from said board of education at any regular meeting of the board of education.

"SEC. 3. Said board of trustees shall have charge of and (*sic*) administration of the public school-teachers' pension and retirement fund of such city, and shall have power to invest the same in such manner as it shall deem most beneficial to said fund, but in the same manner and subject to the same terms and conditions as township trustees are permitted to invest school funds under the laws now in force or such as shall hereafter be enacted and shall have power to make payments from said fund of pensions or annuities granted in pursuance of this act: and shall from time to time make and establish such by-laws, rules and regulations for the administration of said fund, as they shall deem advisable and shall have power to employ such assistance and service as may, in their judgment, be necessary for the proper enforcement of the provisions of this act and carrying into effect valid by-laws, rules and regulations enacted by them, and they shall have power to fill any vacancies occurring in said board of trustees of members elected from the teaching force of said city, until the next annual election, when said vacancies shall be filled as provided by this act.

"SEC. 4. The public school-teachers' pension and retirement fund of such city shall consist of moneys paid into said fund by persons desiring the benefits thereof, under the provisions of this act; of moneys received from donations, legacies, gifts, bequests or otherwise on account of said fund and of moneys paid into said fund in pursuance of any law now in force or hereafter to be enacted.

"SEC. 5. Any person who shall be employed to teach in the public school of any such city, after this act shall take effect, shall be entitled to the benefits of said fund upon complying with the provisions of this act, and for the purposes of this act such persons shall be divided into the following classes:

"1. Those who have taught five years or less.

"2. Those who have taught more than five years and not more than ten years.

"3. Those who have taught more than ten years and not more than fifteen years.

"4. Those who have taught more than fifteen years.

"And after this act shall take effect, there shall be set apart from the salaries of all persons hereafter entering for the first time the employ of the board of education of such cities \$5 per annum, while they remain in the first class; \$10 per annum while they remain in the second class; \$15 per annum while they remain in the third class, and \$30 per annum while they remain in the fourth class, which amounts shall be deducted by the board of education in equal installments from their respective salaries at the regular times for the payment thereof, and be paid into and constitute a part of the public school-teachers' pension and retirement fund of such city.

"SEC. 6. All persons who have heretofore been contributors to a public school-teachers' pension and retirement fund of cities having a population exceeding 100,000 inhabitants, under any law now in force, but who have withdrawn from such participation, may, if the (they) shall exercise the option within six months from the time this act shall become effective renew their right to participation in a fund to be created in said city under the provisions of this act, by paying into said fund the full amount of any moneys they may have withdrawn from such previous fund, and the full amount they would have contributed had they not withdrawn therefrom together with interest thereon at the rate of 4 per cent per annum from the time such moneys were withdrawn and from the time such payments would have become due to the date of their acceptance of the provisions of this section; and thereafter such persons shall contribute to said fund upon the same terms as teachers who shall hereafter be employed and become contributors to and beneficiaries of said fund.

"SEC. 7. All teachers who are now in the service of the board of education of any such city, other than those described in the previous section, may, if they shall exercise the option within six months from the time this act becomes effective become contributors to and beneficiaries of the public school-teachers' pension and retirement fund created under the provisions of this act, upon the same terms as teachers who shall hereafter be employed and become contributors to and beneficiaries of said fund under section 6 of this act.

"SEC. 8. Those teachers in the employ or hereafter to be employed by the board of education of any such city, who shall become contributors to and beneficiaries of a public school-teachers' pension and retirement fund, under any provision of this act, may count past service as a part of the period of twenty-five years hereinafter specified, by paying into said fund a sum equal to that which he or she would have contributed under the provisions of this act, had he or she been a regular contributor to said fund, during said period of past service, together with interest thereon at the rate of 4 per centum per annum from the time such payments would have been made to the time such persons shall by making such payment become entitled to the benefit of such past service.

"SEC. 9. Such board of trustees shall have the power and it shall be its duty to pass a resolution declaring the maturity of service and right to the immediate benefits of said fund in favor of persons entitled to the benefits thereof in the following cases:

1. When any such persons shall have taught in the public schools or rendered service therein for a period of twenty-five years within the meaning of this act.

2. When any contributor to the said fund shall have taught fifteen years in the public schools within the meaning of this act and shall by three competent physicians, who have made a physical examination of the teacher, at the request of a majority of such board of trustees, have been declared to be suffering from a permanent disability: *Provided*, that neither said board of trustees nor said board of education shall declare any contributor entitled to the immediate benefits of said fund until he or she shall have taught in the public schools of such city three-fifths of the term of service of twenty-five or fifteen years as the case may be; and no person shall be entitled to the benefits of said fund until he or she shall have retired from service as a teacher in said city.

"SEC. 10. Each teacher so retired or retiring after twenty-five years of service shall thereafter be entitled to receive an annuity of \$400 and each teacher so retired because of permanent disability after fifteen years of service shall receive as an annual pension such proportion of the full annuity of \$400 as the sum contributed by such teacher so retired bears to the total contribution required for a full annuity. Said pensions and annuities shall be paid monthly during the school year by said board of trustees out of the fund created in accordance with the provisions of this act in the manner provided by law for the payment of teachers' salaries.

"SEC. 11. The board of trustees in any such city, created by the provisions of this act, shall succeed to the administration of any like fund established under any law now in force in this State and such board is hereby given the power to use both the principal and income of all funds for the payment of the pensions or annuities in this act provided for, and shall have the power to reduce from time to time all pensions and annuities, provided such reduction shall be at the same rate on all classes and be rendered necessary by the condition of said fund. Any public school teacher who has heretofore retired from service and is entitled to a pension or annuity from like fund created under any law now in force to the administration of which such board of trustees has succeeded, or as a recipient of a pension or annuity thereunder, shall henceforth be entitled to participate in right of the present law on the same basis as members of the teaching force contributing to said pension and retirement fund, and to receive a graduating pension ranging from four-fifths to five-fifths of pensions paid under the provisions of this act, dependent upon time of service, and \$30 per annum shall be withheld from such pensioner or annuitant as his or her additional contribution to said pension and retirement fund until he or she shall have paid the



aggregate contribution of \$450, provided this clause shall not be operative until pensions shall be payable under the provisions of this act.

"Sec. 12. The president and the secretary of said board of education shall certify monthly to the city treasurer all amounts deducted from the salaries of teachers, special teachers, principals and superintendents of the board of education in accordance with the provisions of this act, which amounts, as well as all other moneys contributed to said fund shall be set apart and held by said treasurer as a special fund for the purposes hereinbefore specified, subject to the order of said board of trustees herein created, and shall be paid out upon warrants signed by the president and secretary of said board of education, and countersigned by the president of the said board of trustees.

"Sec. 13. The city treasurer *ex officio* shall be the custodian of said pension fund, and shall secure and safely keep the same, subject to the control and direction of said board of trustees and shall keep his books and accounts concerning such fund in such manner as may be prescribed by said board, and said books and accounts shall always be subject to the inspection of said board or any member thereof. Said city treasurer shall be liable on his official bond for the proper performance of his duties and the conservation of the fund created by this act. Any legal proceedings which may be necessary for the enforcement of the provisions of this act, shall be brought by and in the name of the board of education for the use of the board of trustees of the public school teachers' pension fund.

"Sec. 14. No teacher who has been, or who shall have been, elected by said board of education, shall be removed or discharged, except for cause, upon written charges, which shall upon said teacher's written request, be investigated and determined by said board of education, whose action and decision in the matter shall be final. If at any time a teacher who is willing to continue is not reemployed or is discharged before the time when he or she would, under the provision of this act, be entitled to a pension, then such teacher shall be paid back at once the money he or she may have contributed under this law. Any teacher who shall retire voluntarily from the service, prior to entering the aforesaid fourth class, shall receive a refund of one-half of the money he or she shall have contributed under this law.

"Sec. 15. All persons who shall hereafter be employed for the first time as teachers by the board of education of any such city shall by such employment accept the provisions of this act and thereupon become contributors to said pension fund in accordance with the terms hereof. And the provisions of this act shall become a part of and enter into any such contract of employment.

"Sec. 16. The money and property now in any such pension fund in any such city, under any law now in force in this State, shall be subject to the control of a board of trustees to be elected under the provisions of this act.

"Sec. 17. All pensions or annuities granted under the provisions of this act and every portion thereof shall be exempt from attachment or garnishment process and shall not be seized, taken, subjected to, detained or levied upon by virtue of any execution, or any process or proceedings whatsoever issued out of or by any court of this State for the payment or satisfaction in whole or in part of any debt, claim, damage, demand or judgment against any pensioner hereunder, and no annuitant or pensioner shall have the right to transfer or assign his or her pension or annuity or any part thereof either by way of mortgage or otherwise.

"Sec. 18. This act is intended to succeed and take the place of all previous acts on the subject of public school teachers' pension and retirement fund in cities having a population exceeding 100,000 inhabitants. And all acts and parts of acts in conflict herewith are hereby repealed."

H. B. 843, p. 529, May 24, 1907.

D 875. Illinois (1907): Hurd's Rev. Stat., 1903, p. 381, chap. 24, sec. 12, provides that no employee in the civil service of any city who shall have been appointed under the rules of the commission shall be discharged except for cause, etc., after investigation by the commission or a board appointed by the commission. Hurd's Rev. Stat., 1903, p. 1725, chap. 122, sec. 8, making provisions for a pension fund for the public school em-

ployees in certain cities, provides that no employee elected by the board of education shall be discharged except for cause upon written charges, which shall be investigated by said board of education, whose decision shall be final. In 1903 the public school employees' pension act was amended (Hurd's Rev. Stat., 1903, p. 1728, chap. 122, sec. 16), providing that all appointments of employees by the board of education shall be made pursuant to the civil service act, and that no employee who has contributed to such fund shall be discharged except for cause, upon written charges, determined by the board of education, etc. *Held*, that the amendment does not limit the power of the board of education to discharge those who have contributed to the pension fund, but it is given full authority to discharge any employees upon a proper hearing, but in all other respects the civil service laws are applicable to such employees.—*People v. City of Chicago*, 81 N. E., 370, 227 Ill., 445.

876. **Indiana:** Concerning pensions for aged, infirm, disabled, diseased, or retired teachers in cities having a population of 100,000 or more, according to the last preceding United States census; providing for a fund out of which said pensions shall be paid; providing for a board of trustees for the management and distribution of such fund, and prescribing regulations relative to the mode of obtaining, preserving, using, and disbursing such fund.

"SECTION 1. Be it enacted by the General Assembly of the State of Indiana, That in every city in the State of Indiana having a population of 100,000 or more, according to the last preceding United States census, there shall be, and is hereby, created a teachers' pension fund, which shall be governed and managed by a board of trustees, to be composed of seven members, as follows: Three members of the board of school commissioners of such city, to be selected or appointed annually by such board, the superintendent of public schools, one principal and two teachers regularly employed in the public schools of such city. Said principal and teachers shall be selected at a meeting of the public school teachers of such city on the third Saturday of March, 1907, in such manner and at such place or places as shall be determined and designated by the board of school commissioners of such city; and thereafter there shall be selected on the third Saturday of March of each year one principal and two teachers as members of such board of trustees. The trustees shall hold their offices until their successors shall be selected or elected as above set forth. In the event of a vacancy upon said board occasioned by the death, resignation or disability of either of said principal or teachers, then the public school teachers of said city shall, within a reasonable time, upon the call of the president of said board of trustees, hold a special meeting and elect a successor or successors. A majority of said trustees shall constitute a quorum for the transaction of business pertaining to said pension fund. Said trustees shall receive no pay for their services as such, except the secretary and assistant treasurer, each of whom may be paid such sum for services as may be fixed by the board of trustees: Provided, however, That if anyone shall act as such secretary or assistant treasurer who shall receive any of the benefits of said pension fund, as hereinafter provided, the amount of the salary so received by such secretary or assistant treasurer shall be deducted from the amount to which he or she would otherwise be entitled as a beneficiary under said fund.

"SEC. 2. Said board of trustees shall elect from among its number a president, vice-president and secretary. The president shall preside at the meetings of the board and perform all other duties usual to such office. The vice-president shall perform the duties of the president in his absence. It shall be the duty of the secretary to keep a true and accurate account of the proceedings of such board of trustees and of the teachers of such city, when acting upon matters with relation to said fund, and to turn over to his or her successor all books and papers pertaining to such office. The secretary of the board of school commissioners of such city shall act as assistant treasurer, and it shall be his duty to keep a true and correct statement of the account of each member with said pension fund, to collect and turn over to the treasurer of said

board all moneys belonging to said fund, and to render to the board a monthly account of his doings. He shall furnish bond in such amount as shall be determined and required by said board of trustees, and the board of school commissioners of such city shall allow him such compensation for his services as it may deem proper. The treasurer of such city shall be ex officio the treasurer of said board of trustees, and he shall receive and hold all moneys belonging to such teachers' pension fund; he shall have the custody of all notes, bonds and other securities belonging to said fund, and shall collect the principal and interest of the same and shall be liable on his bond as such city treasurer for the performance of all the duties imposed upon him by this act and for the faithful accounting of all moneys and securities, including both principal and interest, which may come into his hands and which shall belong to such pension fund. And he shall keep a separate account which shall show at all times the true condition of such fund. Said treasurer shall, upon the expiration of his term of office, account to said board for all moneys, notes, bonds and other securities coming into his hands, and for the interest, income, profits, rentals and proceeds of and from the same, and he shall turn over to his successor all moneys, notes, bonds and other securities belonging to said fund. The secretary, treasurer and assistant treasurer shall make a full, true and accurate report of their offices and trusts at each annual meeting of such teachers in March of each year. Their books shall at all times be open to inspection or examination by any member of said board of trustees.

"Sec. 3. Such board of trustees shall have full charge and control of the teachers' pension fund of such city with power to adopt and enforce all needful regulations governing the same, not inconsistent with this act. Said fund shall be derived from the following sources:

"First. All moneys that may be given to said board of trustees or to said fund or to the board of school commissioners of such city, for the use of said board of trustees of teachers' pension fund, by any person or persons. Such board of trustees may take by gift, grant, devise or bequest, any money, choses in action, personal property, real estate, or any interest therein, and any such gift, grant, devise or bequest may be absolute, or upon the condition that only the rent, profits and income arising from the same shall be applied to the uses and purposes of said fund. Such board of trustees shall be authorized to take such gift, grant, devise or bequest under and by the style of the board of trustees of the teachers' pension fund, of such city, and to hold the same, or assign, transfer or sell the same, whenever proper and necessary, under and by such name.

"Second. Every teacher shall be assessed upon his or her salary as follows: One per centum per annum (but not more than \$10) upon the salary of every teacher who shall not have taught in excess of fifteen (15) years; and two per centum per annum (but not to exceed \$20) upon the salary of every teacher who shall have taught longer than fifteen (15) years; Provided, however, that such assessment shall not be made prior to the first day of September, 1907. And the assistant treasurer of such board of trustees shall prepare a roll of each of said assessments and place opposite the name of every teacher the amount of assessment against him or her, and shall furnish a copy of such roll to the treasurer, and the treasurer of said board shall, in November and April of each school year, deduct and retain out of the salary going to such teacher the amount of such assessment, and shall give him or her credit for the same and place the same to the credit of said teachers' pension fund. Every teacher of such city receiving a salary of four hundred fifty dollars (\$450) a year or more shall pay such assessment, and in becoming a teacher he or she shall be conclusively deemed to undertake and agree to pay the same, and to have such assessment deducted from his or her salary as hereinbefore provided.

"Third. The board of school commissioners of such city shall levy each year, in addition to all other taxes authorized by law, a special tax of one cent upon each one hundred dollars of taxable property in the city, which sum shall be collected as other taxes are collected by law, and which shall be credited by the treasurer of such city to the said teachers' pension fund, and shall not be used or devoted to any other than the purposes of said fund. And nothing in this act shall be deemed to take from

said board of school commissioners the powers now given to said board in relation to the levy of taxes under existing statutes.

"Sec. 4. The board of trustees of such teachers' pension fund shall determine what part of said fund may be safely invested, and how much shall be retained for the immediate needs, demands and exigencies of said fund. Such investment shall be made: (1) In interest bearing bonds of the United States, or of the State of Indiana, or in any bond lawfully issued by any state or by any county, township, city or other municipal corporation, either within or without the State of Indiana; (2) loans secured by mortgage upon real estate within the county wherein such city is located, which loans shall not be in excess of fifty per centum of the appraised value of such real estate. All bonds, mortgages and other securities shall be deposited with and remain in the custody of the treasurer of said board, who shall collect all interest due thereon and all the income therefrom, as the same shall become due and payable.

"Sec. 5. The board of trustees of such teachers' pension fund shall establish a sinking fund, to the credit of which shall be put and deposited all gifts, grants, devises and bequests, and the unexpended balance remaining at the expiration of each fiscal year. And such sinking fund shall be and remain a permanent fund, and no part thereof shall be expended except the interest and income thereof and therefrom; provided, however, that one-half of the amount added to such sinking fund during any year may be used, if necessary, during the year immediately following.

"Sec. 6. Said teachers' pension fund shall be used and devoted in the manner and for the purposes following:

"First. The maximum pension to be paid any teacher shall be six hundred dollars (\$600) per annum, which amount shall be based upon a service of forty (40) years as such teacher, and every pensioner and beneficiary of said fund shall be entitled to and shall receive such percentage of said sum of \$600 as the number of years of teaching of said pensioner and beneficiary shall bear to the term of forty years, subject, however, to all the provisions of this act.

"Second. Any aged, infirm, diseased or disabled teacher, who is now or hereafter may be teaching in the public schools of such city, having served as such teacher for not less than fifteen (15) years, shall be entitled to receive a disability pension; provided said board of trustees shall find that he or she is entitled to the same by reason of such age, disease, infirmity or disability, and after such applicant for a pension shall have been examined by a physician selected for such purpose by said board of trustees, the examination fee or charge of such physician to be paid by the applicant; and provided further, that no such pension shall be paid until any sick pay allowed or provided for by the board of school commissioners of such city shall have ceased.

"Third. Any teacher who is now or hereafter may be teaching in the public schools of such city, and shall have taught for not less than twenty-five (25) years, may be pensioned upon application to said board of trustees, or may be pensioned by such board without such application and shall thereafter receive a pension during the remainder of his or her life, subject, however, to all the conditions contained in this act; provided, that such pensioner shall have paid into said fund, by way of assessment or otherwise, not less than one-third (1-3) of the amount to which he or she shall be entitled per annum as a pensioner. And in order to make up such one-third, the board of trustees may order the treasurer to deduct one-half thereof each of the first two years from the amount of such pension.

"Sec. 7. In computing the years of service as provided in this act, the board of trustees may include services as a public school teacher rendered outside of such city, not, however, in excess of five (5) years, as a portion of such services necessary before any teacher shall be entitled to any of the benefits of this act; provided, however, that such teacher shall pay assessments based upon the first annual salary received by him or her in the schools of such city for the said years of service elsewhere, in addition to the assessments paid by such teacher while in the services of such schools before receiving any retirement pension; and; provided, further, that nothing in this section shall affect the amount or amounts to be paid into such pension fund by school



teachers before being entitled to become a pensioner. And any teacher may be given a leave of absence for study, professional improvement or temporary disability, not exceeding one year at any one time, and shall be regarded as a teacher and entitled to the benefits of this act; provided that during such absence he or she continues to pay into such fund the amount of assessment payable by such teacher the last year preceding such leave of absence.

"Sec. 8. After any teacher shall have been pensioned by reason of injury, disability or disease, the board of trustees shall have the right at any time to cause such teacher again to be brought before such board and examined by its physician, and also to examine other witnesses, for the purpose of ascertaining whether said injury, disability or disease shall still continue and whether such teacher shall remain on the pension roll. Such teacher shall be entitled to notice and to be present at the hearing of any such evidence; shall be permitted to propound any question pertinent or relevant to such matter, and shall also have the right to introduce evidence upon his or her own behalf. Such teacher and all witnesses shall be examined under oath, and any member of such board of trustees is hereby authorized and empowered to administer such oath. The decision of such board of trustees shall be final and conclusive, and no appeal shall be allowed therefrom, nor shall the same be reviewable by any court or other authority; provided, however, that every pensioned teacher shall report to the superintendent of public schools of such city whenever required so to do. And said superintendent may assign such teacher to such service or employment as may be within his or her power to perform, in the judgment of such superintendent of public schools and of the examining physician employed by the said board of trustees. And during the time of such employment such teacher shall receive the regular salary therefor, which shall be credited to and deducted from the amount payable to such teacher from said pension fund. And should any pensioned teacher recover from his or her injury, disease or disability, and again be fit for regular duty, then such teacher may again be regularly employed, and during the time of such employment, he or she shall cease to be entitled to any payment out of said pension fund because of the injury, disease or disability on account of which such teacher was originally retired.

"Sec. 9. Any teacher applying to be pensioned by reason of length of time of service as in this act provided, shall be pensioned and retired without any medical examination, nor need he or she be under any physical disability, and from the time of such pension and retirement such teacher shall not be required to render further services as such teacher, nor shall he or she be deprived of the benefits herein provided, except for any cause contained in section 16 of this act.

"Sec. 10. In computing time under the provisions of this act, such time shall include services rendered before, as well as after, the taking effect of this act.

"Sec. 11. The board of trustees shall have power and authority to make all necessary by-laws providing for the manner of the election of such trustees, to be elected as in this act provided, the counting and canvassing of the votes for the same, their meetings, for the collection of all moneys and other property coming or belonging to said fund, and all other matters connected with the care, preservation and disbursement of the same, and the proper execution of the purposes and provisions of this act. And any pension authorized by the board under this law shall be subject to reduction by said board of trustees whenever in its judgment the condition of the pension fund, the financial or other conditions of the pensioner or any other circumstances render such reduction advisable, proper or necessary, and any pension so reduced may thereafter be restored or increased, as such board may deem best.

"Sec. 12. Any teacher who shall cease to teach in the public schools of such city before receiving any benefit from the fund, shall be entitled to the return of one-half of the amount, without interest, which shall have been paid into said pension fund by such teacher; provided, however, should such teacher thereafter again teach in the public schools of such city, he or she shall refund to said pension fund the amount so returned to such teacher within one year from the date of his or her return to service in the schools. And should any teacher



die before receiving any of the benefits or pensions by this act provided, the board of trustees shall pay to such teacher's heirs or estate, or either or any of them, as it shall see fit, one-half the amount, without interest, which shall have been paid into said pension fund by said teacher.

"SEC. 13. If at any time there should not be sufficient money in or to the credit of said teachers' pension fund to pay all claims against it in full, then and in such event, an equal percentage shall be paid upon all of such claims to the full extent of the funds on hand, until such pension fund shall be sufficient to pay all claims against it in full.

"SEC. 14. All pensions herein provided for shall be paid by the treasurer of the board of school commissioners at his office at the same time and in such installments as the teachers of such city shall be paid; provided, however, that no pension of any kind whatsoever provided for in this act shall be paid prior to October 1, 1908.

"SEC. 15. All pensions granted and payable out of said teachers' pension fund shall be and are exempt from seizure or levy upon attachment, execution, supplemental process, and all other process, whether mesne or final; and such pensions or any payment of the same shall not be subject to sale, assignment or transfer by any beneficiary, and such transfer shall be absolutely void.

"SEC. 16. Whenever any person who shall have received any benefit from said fund shall be convicted of any felony, or of any misdemeanor, for which he or she shall be adjudged to be imprisoned, or shall fail to report for examination for duty as required herein, unless excused by the board of trustees of such city, or shall disobey the requirements of said board of trustees in respect to said examination for duty, or shall fail to perform such duty as may be required of him or her if found able to perform such duty, then such board shall order that the pension allowed and paid to him or her shall cease, until the further order of such board.

"SEC. 17. The term teacher as used in this act shall mean and include any principal, assistant principal, assistant superintendent, supervisor, assistant supervisor, person in charge of any special department of instruction, and any teacher or instructor regularly employed as such by the board of school commissioners of such city.

"SEC. 18. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in force from and after its passage."

Chap. 170, Mar. 9, 1907.

877. **Louisiana:** Authorizing the Louisiana State University and Agricultural and Mechanical College to accept the offer of the board of trustees of the Carnegie Foundation to admit state universities to benefits of the retiring allowance system of said foundation.

Act No. 219, July 8, 1908.

- 877a. **Maryland:** Adding secs. 102A-102S, art. 4, Acts, 1898, relative to the city of Baltimore.

Providing for a retirement fund for public school teachers of Baltimore.

Chap. 78, p. 595, Mar. 12, 1908.

- 877b. **Maryland:** Repealing, and reenacting, with minor amendments, sec. 58, art. 77, Public General Laws, 1904, relative to teachers' pensions.

Chap. 605, p. 226, April 6, 1908.

878. **Massachusetts:** Relative to the Massachusetts agricultural college.

Authorizing and directing board of trustees to use their best efforts to secure and accept for the college the benefits of the retiring fund of the Carnegie Foundation for the Advancement of Teaching.

Resolves, chap. 138, June 12, 1908.

879. **Massachusetts:** Authorizing cities and towns to establish pension funds for teachers in the public schools.

"SECTION 1. In any city or town, except the city of Boston, which accepts the provisions of this act a pension fund shall be established for the retirement of teachers in public schools. The fund shall be derived from such revenues as may be devoted to the purpose by the

city council of a city or by direct appropriation by a town. The treasurer of the city or town shall be the custodian of the fund and shall make annual or semi-annual payments therefrom to such persons and of such amounts as shall be certified to him by the school committee.

"Sec. 2. The school committee of any city or town which shall accept the provisions of this act may retire from active service and place upon the pension roll, any teacher of such city or town who is sixty years old or over, or is, in the judgment of said committee, incapacitated for useful service, and who has faithfully served such city or town for twenty-five years. The amount of the annual pension allowed to any person under the provisions of this act shall not exceed one-half of the annual compensation received by such person at the time of such retirement and in no case shall exceed five hundred dollars.

"Sec. 3. Upon the petition of not less than five per cent of the legal voters of any city or town, this act shall be submitted, in case of a city, to the voters of such city at the next city election, and, in case of a town, to the voters of such town at the next annual town meeting, and the vote shall be in answer to the question to be placed upon the ballot: Shall an act passed by the general court in the year nineteen hundred and eight, entitled 'An Act to authorize cities and towns to establish pension funds for teachers in the public schools,' be accepted? And if a majority of the voters voting thereon at such election or meeting shall vote in the affirmative this act shall take effect in such city or town.

"Sec. 4. So much of this act as authorizes its submission to the voters of a city or town shall take effect upon its passage, but it shall not take further effect in any city or town until accepted by the voters thereof as herein provided."

Chap. 498, Apr. 30, 1908.

880. **Massachusetts:** An act to provide for the payment of pensions to teachers in the public day schools of the city of Boston.

*"Be it enacted, etc., as follows:*

"SECTION 1. The school committee of the city of Boston shall forthwith establish a permanent school pension fund for the payment of pensions as hereinafter set forth to the members of the teaching or supervising staff of the public day schools of the said city at a rate not exceeding one hundred and eighty dollars a year.

"Sec. 2. The care and investment of said fund and of any gifts or legacies thereto are hereby vested in a board of three trustees, of whom one shall be the chairman of the board of commissioners of sinking funds of the city of Boston, ex officio, and another shall be chosen by said school committee, and the third shall be chosen by the board of trustees of the Teachers' Retirement Fund in the city of Boston, established under the provisions of chapter two hundred and thirty-seven of the acts of the year nineteen hundred. The said trustees shall serve without compensation. At the first regular meeting of the school committee of the city of Boston, after the adoption of this act, and in each fifth year thereafter, at one of the regular June meetings, or at some subsequent regular meeting of the said committee, it shall elect one member of the said board of trustees who shall hold office for the term of five years beginning with the first day of July in the year of his election. The board of trustees of the said Teachers' Retirement Fund shall elect one of the trustees of the said permanent school pension fund for the term of four years beginning with the first day of July of the current year, and shall, at the expiration of such term and shall in each fifth year thereafter, elect a member of said board of trustees for the term of five years beginning with the first day of July in the year of his election. Every such trustee shall subscribe, in a book kept for that purpose in the office of the city clerk in said city, a statement that he accepts the said office subject to the provisions of this act, and any elected member of said board of trustees whose term of office has expired shall continue to serve as a member of said board until his successor is duly elected and qualified. In case of a vacancy in the elected members of said board of trustees by reason of death, resignation or other cause, the body which elected the person whose place thus becomes vacant shall fill the vacancy by an election for the unexpired term.

"Sec. 3. Said board of trustees shall have charge and control of said permanent school pension fund and of all amounts contributed thereto,

and shall invest and reinvest the same in securities in which the funds of savings banks in the commonwealth of Massachusetts may by law be invested, excepting personal securities, and said trustees may, from time to time, sell such securities and shall invest and reinvest the proceeds thereof, and any and all unappropriated income of said pension fund. The city treasurer of said city shall be the custodian of all securities and money belonging to the said permanent school pension fund and shall be responsible for the safe custody thereof; shall, whenever any of such securities are sold by the said trustees for the purpose of reinvestment, deliver the securities so sold upon receiving the proceeds thereof; shall, on such conditions and at such rates of interest as the trustees may approve, deposit temporarily in national banks doing business in Boston, or in trust companies organized under the laws of this commonwealth and doing a banking business in Boston, any money belonging to said fund which, in the opinion of the said trustees, it is inexpedient for the time being to invest in securities authorized by this act; and shall forthwith invest any money belonging to said pension fund in such securities authorized by this act as the said trustees may direct, and upon such terms as they may specify. The said trustees shall keep a record of their proceedings, and shall annually on the first day of February, or as soon thereafter as may be, make a written report to the school committee of the amount and condition of said fund and of the income thereof for the preceding municipal financial year, as established from time to time by said city. Their records and the securities belonging to said fund shall at all times be subject to the inspection of the school committee. The secretary of the school committee shall be the secretary of the said board of trustees and shall have the custody of all records, documents and papers belonging to them. The expense of such additional clerical assistance as may be needed in the office of said secretary for the purposes of this act shall be paid from the annual appropriations for the expenses hereinafter provided for.

"Sec. 4. In addition to the amount which the school committee is now authorized by law to appropriate for the support of the public schools of the city, and for other purposes, it shall annually appropriate for the purposes contemplated by this act, and in the same manner in which it makes appropriations for other school purposes, the sum of five cents upon each one thousand dollars of the valuation on which the appropriations of the city council of the city are based, and shall from time to time pay to the treasurer of the permanent pension fund such portions of the proceeds of said five cents upon each one thousand dollars of the valuation aforesaid as, in the opinion of the school committee, will not be needed for the purpose of paying pensions to teachers during that year.

"Sec. 5. Section fifty-four of chapter twelve of the Revised Laws is hereby amended by striking out the words 'ten and one half dollars', in the twentieth line, and inserting in place thereof the words:—ten dollars and fifty-five cents,—so as to read as follows:—*Section 54.* The taxes assessed on property exclusive of the state tax, county tax and sums required by law to be raised on account of the city debt shall not in any year exceed twelve dollars in any city on every one thousand dollars of the assessors' valuation of the taxable property therein for the preceding year, said valuation being first reduced by the amount of all abatements allowed thereon previous to the thirty-first day of December in the year preceding said assessment, subject to the following provisions:—If the city council of a city which contains less than one hundred thousand inhabitants according to the last preceding national or state census so determines, the average of the assessors' valuation of the taxable property therein for the preceding three years, said valuation for each year being first reduced by the amount of all abatements allowed thereon previous to the thirty-first day of December in the year preceding said assessment, shall be used to determine said limit of taxation instead of said assessors' valuation of the preceding year. In the city of Boston, and in all cities which contain one hundred thousand inhabitants or more according to the census aforesaid, said average shall be so used. In the city of Boston, said taxes shall not exceed ten dollars and fifty-five cents instead of twelve dollars as aforesaid. Any order or appropriation re-

quitting a larger assessment than is herein limited shall be void. The provisions of this section shall not affect any existing exemption from the operation of the corresponding provisions of earlier laws.

"SEC. 6. The total amount of pensions payable hereunder in any one year shall not exceed the proceeds of the said five cents upon each one thousand dollars of the valuation aforesaid, together with the income accruing during that year from the investment of the permanent pension fund.

"SEC. 7. The school committee of said city, by a majority vote of all of its members, may retire with a pension any member of the teaching or supervising staff of the public day schools of the city of Boston who, in the opinion of said committee, is mentally or physically incapacitated for further efficient service, subject however to the limitations herein-after set forth. If the person so retired has attained the age of sixty-five years or has been engaged in teaching or supervising in the public day schools for a period aggregating thirty years, twenty of which shall have been in the public day schools of the city of Boston, such person shall be paid a pension at the rate of one hundred and eighty dollars per annum. If a person so retired shall be less than sixty-five years of age and shall have been engaged in teaching or supervising in the public day schools in Boston and elsewhere for a period aggregating less than thirty years, the annual pension paid to such person shall be such percentage of one hundred and eighty dollars as the total number of years of service of such person is of thirty years: *provided, however*, that if the annual pension of such person so determined shall be a larger percentage of one hundred and eighty dollars than the number of years which such person has taught in the public day schools in the city of Boston is of twenty years, then the annual pension paid to such person shall be such percentage of one hundred and eighty dollars as that person's length of service in the public day schools of said city is of twenty years; and *provided, further*, that the pension of any teacher retired under the provisions of this act shall terminate if and when, in the judgment of the school committee, the person's incapacity shall have ceased. In determining the aggregate length of service of any person retired in accordance with the provisions of this act any period of leave of absence under salary shall be considered as equivalent to an equal amount of actual teaching service. The city treasurer of the city shall pay pensions to teachers retired under this act in accordance with monthly payrolls prepared and certified to by the school committee.

"SEC. 8. All acts and parts of acts inconsistent herewith are hereby repealed.

"SEC. 9. This act shall take effect upon its acceptance by the city council of the city of Boston, with the approval by the mayor.

*"(The foregoing was laid before the Lieutenant Governor, Acting Governor, on the twenty-ninth day of May, 1908, and after five days it had 'the force of a law', as prescribed by the Constitution, as it was not returned by him with his objections thereto within that time.)"*

Chap. 589, June 3, 1908.

Accepted in November by the Boston city council, with approval by the mayor.

881. **New Jersey:** Amending chap. 103, Laws, 1906, relative to pensioning of school teachers.

Permitting board of education or other body (formerly, board of education) to retire with pension, teachers, principals, or superintendent.

Chap. 121, May 7, 1907.

882. **New Jersey:** Amending secs. 213-224, art. 25, chap. 1, Acts, 1903 (sp. sess.), as amended by chap. 314, Acts, 1906, relating to teachers' retirement fund.

Modifying provisions concerning constitution, membership, and duties of board of trustees. Increasing annual annuity from one-half to six-tenths of average annual salary for five years next preceding, raising maximum annuity from \$600 to \$650; enumerating the securities in which the fund may be invested. Numerous minor changes.

Chap. 189, May 7, 1907.

883. New York: Establishing a retirement fund for pensioning teachers of the public schools in the city of Elmira, and regulating the collection, management, and disbursement thereof.

"SECTION 1. The general care and management of the public school teachers' retirement fund is hereby given to the board of education, who shall, from time to time, establish such rules and regulations for the administration of said fund as it may deem best, and said board shall make payments from said fund of annuities granted in pursuance of this act when so directed by the board of retirement. The chamberlain of the city of Elmira shall hold and invest all money belonging to said fund in such investments only as are legal for savings banks in the state of New York and by direction of said board of education shall pay out the same, and he shall report in detail to the board of education of the city of Elmira, annually in the month of May, or oftener if required by the board of education, the condition of said fund and the items of receipts and disbursements of the same.

"SEC. 2. The retirement fund shall consist of the following, with interest and income thereof:

"1. All money, pay, compensation or salary, or any income thereof forfeited, deducted, reserved or withheld for any cause from any teacher of the public schools of the city of Elmira, in pursuance of rule established or to be established by the board of education of the city of Elmira. The board of education shall certify monthly to the chamberlain the amounts so forfeited, deducted, reserved or withheld during the previous month. Such amounts shall be turned into the said retirement fund.

"2. All money received from donations, legacies, gifts, bequests or otherwise for or on account of said fund.

"3. The sum of two thousand dollars yearly as provided for by the common council of the city of Elmira.

"4. One per centum of the salaries of all teachers of the public schools of the city of Elmira, except that the amount deducted from the salary of any teacher shall not exceed twelve dollars in any one year. The board of education shall after September first, nineteen hundred and seven, deduct from each and every payroll of teachers, said one per centum of each and every amount earned in the period covered by said payroll, except that the amount deducted from any one salary shall not exceed twelve dollars for any one year. The board of education shall certify monthly to the city chamberlain, the amounts so deducted, and said amounts shall be turned into said retirement fund. Each contract made by the board of education with teachers, shall specify that one per centum shall be deducted as provided in this paragraph. Any teacher who shall have been a contributor to the retirement fund and who shall retire from the service, not being in receipt of an annuity shall, if application be made within three months after the date of his or her retirement, receive three-fourths of the total amount paid by him or her into the retirement fund.

"5. All such other methods of increment as may be duly and legally devised for the increase of said fund.

"SEC. 3. The board of retirement shall consist of the president of the board of education, the chairman of the teachers' committee, the chairman of the finance committee, the superintendent of schools and three members of the teaching staff to be chosen by ballot at a meeting of the teachers, called sometime during the month of May of each year by the superintendent of schools. At this meeting any vacancy in the members of the retiring board to be chosen from the teachers, shall be elected by ballot. The three members chosen the first year from the teachers shall determine by lot one member who shall serve for three years, one member who shall serve for two years, and the remaining member shall serve for one year and thereafter one member shall be elected each year.

"SEC. 4. On the recommendation of the board of retirement the board of education shall have power to retire any of the teachers of the public schools of the city of Elmira who, in the discretion of the board of education, is incapacitated for the performance of duty, and who has been engaged in the work of teaching for a period aggregating twenty years, fifteen of which shall have been in the public schools of the city of Elmira. The board of education may retire any teacher who shall



have attained the age of sixty-five years and shall have been engaged in the work of teaching for a period aggregating thirty years. On the recommendation of the board of retirement, the board of education shall retire upon his or her own application any teacher of the public schools of the city of Elmira who has been engaged in the work of teaching for a period aggregating thirty years, fifteen of which shall have been in the public schools of the city of Elmira.

"Sec. 5. Upon such retirement, whether voluntary or otherwise, the person retired shall be entitled to receive an annuity out of the retirement fund of one-half of the average annual salary paid to such person for the five years immediately preceding retirement, but no annuity shall exceed the sum of four hundred dollars. Any person retired after twenty years of service, but with less than thirty years of service, shall receive an annuity which bears the same ratio to the annuity provided for on retirement after thirty years of service as the total number of years of service of said person bears to thirty years. No annuity shall be paid to any teacher who has not paid into the retirement fund at least twenty per centum of his or her annual salary at the time of retirement. Any teacher who teaches in any public school after being retired shall receive no benefit from said fund while so teaching. The annuities provided for by this act shall be payable in monthly installments. If the moneys in the retirement fund be inadequate at any time to fully carry out the provisions hereinabove mentioned, the board of education shall then distribute said moneys pro rata to the persons entitled to participate in said fund, and such distribution shall be in full of all annuities then due.

"Sec. 6. The term 'teacher' shall include:

"1. All persons regularly employed to teach in the public schools of the city of Elmira, except male teachers employed in the high school of Elmira.

"2. Those principals who have served as grade teachers in the public schools of the city of Elmira for at least ten years."

Chap. 86/Mar. 27, 1907. (Sept. 1, 1907.)

884. New York: Amending sec. 1092, of charter of Greater New York, as amended by chap. 530, Laws, 1902, as amended by chap. 177, Laws, 1903, as amended by chap. 661, Laws, 1905, relative to the public school teachers' retirement fund.

"SECTION 1. \* \* \* The general care and management of the public school teachers' retirement fund created for the former city of New York by chapter two hundred and ninety-six of the laws of eighteen hundred and ninety-four, and of the public school teachers' retirement fund created for the former city of Brooklyn, by chapter six hundred and fifty-six of the laws of eighteen hundred and ninety-five, is hereby given to the board of education, and the said funds are hereby made parts of the retirement fund of the board of education of the city of New York created by this act. The board of education shall from time to time, establish such rules and regulations for the administration of said fund as it may deem best, which rules and regulations shall preserve all rights inhering in the teachers of the city of New York and the city of Brooklyn as constituted prior to the passage of this act; and said board shall make payments from said fund of annuities granted in pursuance of this act. The comptroller of the city of New York shall hold and invest all money belonging to said fund, and by direction of said board of education shall pay out the same; and he shall report in detail to the board of education of the city of New York, annually, in the month of January, the condition of said fund and the items of the receipts and disbursements on account of the same. The said retirement fund shall consist of the following, with the interest and income thereof: (1) All money, pay, compensation or salary, or any income thereof forfeited, deducted, reserved, or withheld for any cause from any member or members of the teaching or supervising staff of the public day schools of the city of New York or of the normal college and training department of the normal college of the city of New York, or of schools or classes maintained in institutions controlled by the department of public charities or by the department of correction, in pursuance of rules established or to be estab-

Mahed by the board of education, or by the board of trustees of the normal college of the city of New York, or by the commissioner of public charities, or by the commissioner of correction for schools or classes maintained by such commissioners respectively. The auditor of the board of education, the auditor of the board of trustees of the normal college, the commissioner of public charities, and the commissioner of correction shall certify monthly to the comptroller the amounts so forfeited, deducted, reserved or withheld during the preceding month. Said amounts shall be turned into the said retirement fund. (2) All moneys received from donations, legacies, gifts, bequests, or otherwise for or on account of said fund. (3) Five per centum annually of all excise moneys or license fees belonging to the city of New York, and derived or received by any commissioner of excise or public officer from the granting of licenses or permission to sell strong or spirituous liquors, ale, wine, or beer in the city of New York, under the provisions of any law of this state authorizing the granting of such license or permission. (4) One per centum of the salaries of all members of the teaching and supervising staff of the public day schools of the city of New York, and of the normal college and training department of the normal college of the city of New York, and of schools or classes maintained in institutions controlled by the department of public charities or by the department of correction of the city of New York, except that the amount deducted from the salary of any teacher or principal of the public day schools of the city of New York or of schools or classes maintained in institutions controlled by the department of public charities or by the department of correction of the city of New York, in this manner, shall not exceed thirty dollars in any one year, and the amount deducted from the salary of any supervising official, in this manner, shall not exceed forty dollars in any one year. And the board of education, the board of trustees of the normal college, the commissioner of public charities, and the commissioner of correction shall, after the passage of this act, deduct on each and every payroll of the said teaching and supervising staff said one per centum from each and every amount earnable in the period covered by the said payroll, notwithstanding the minimum salaries provided for by section ten hundred and ninety-one of the charter shall be thereby reduced, and shall certify monthly to the comptroller the amounts so deducted; and said amounts shall be turned into the said retirement fund. All deductions made under the provisions of this clause from the salary of any person who may be dismissed from the service for cause, before said person shall have become eligible for retirement, under the provisions of this act, shall be refunded to said person upon such dismissal. (5) All such other methods of increment as may be duly and legally devised for the increase of said fund. The moneys standing to the credit of the retirement fund on the thirty-first of December, nineteen hundred and four, after subtracting therefrom any amounts forfeited, deducted, reserved or withheld from salaries for absences prior to that date, which may, on excuse of absence, be refunded after that date, all excise moneys of nineteen hundred and four which may have been credited to said fund on or before that date, and all interest for nineteen hundred and four on said fund, which may have been credited to said fund on or before said date, shall be set apart by the comptroller as a permanent fund. The unexpended balances of the income of the teachers' retirement fund for the year nineteen hundred and five, and for all subsequent years shall be added to the said permanent fund. The comptroller shall invest the said permanent fund, and the income thereof may be used for the payment of annuities, but if necessary, in order to carry out the provisions of this act, the board of education may use any portion of the permanent fund in excess of eight hundred thousand dollars in the same manner as the income thereof. The president of the board of education, the chairman of the committee on elementary schools of said board, the chairman of the committee on high schools of said board, the city superintendent of schools, and three members to be selected from the principals, assistants to principals and teachers of the public day schools shall constitute a board of retirement. The three last-named members shall be chosen as follows: On the second Thursday of May in each year the principals, assistants to principals and

teachers in each district shall meet at the call of the district superintendent, which call he shall issue at least one week before said meeting, and at a place within the district designated by him, to select by ballot one of their number as district representative to serve for one year. At the close of said meeting, the presiding officer shall transmit to the secretary of the board of education the name and address of the district representative so chosen. The district representatives shall meet at four o'clock in the afternoon on the third Thursday of May at the hall of the board of education and choose by ballot one of their number to serve on the board of retirement for three years from the first day of the following June. At the first meeting of the district representatives after this law takes effect, they shall choose by ballot three of their number to serve on the board of retirement, and the three so chosen shall by lot fix and determine their terms of office as one, two, and three years respectively. Should a vacancy occur among the members of the board of retirement so chosen, the district representatives shall meet and choose by ballot one of their number to serve on the board of retirement for the unexpired term. On the recommendation of the board of retirement, said board of education shall have power, by a two-thirds vote of all its members, to retire any member of the teaching or supervising staff of the public day schools of the city of New York, or of schools or classes maintained in institutions controlled by the department of public charities or by the department of correction who is mentally or physically incapacitated for the performance of duty, and who has been engaged in the work of teaching or of school or college supervision, or of examination of teachers for licenses, or any two or more of the several kinds of work, for a period aggregating twenty years, fifteen of which shall have been in the public day schools in the city of New York, or in schools or classes maintained in institutions controlled by the department of public charities or by the department of correction. And the board of education may retire from active service any member of the said teaching or supervising staff who shall have attained the age of sixty-five years and shall have been engaged in the work of teaching or school supervision for a period aggregating thirty years. On the recommendation of the board of retirement, the board of education shall have power, by a two-thirds vote of all its members, to retire upon his or her own application any member of the teaching or supervising staff of the public day schools of the city of New York, or of schools or classes maintained in institutions controlled by the department of public charities or by the department of correction who has been engaged in the work of teaching or of school or college supervision, or of examination of teachers for licenses, or any two or more of these several kinds of work, for a period aggregating thirty years, fifteen of which shall have been in any of the said institutions. The said board of education shall also have power, by a two-thirds vote of all its members, and after recommendation to that effect shall have been made by the board of trustees of the normal college stating that the member of the supervising or teaching force is mentally or physically incapacitated for the performance of duty, to retire any member of the teaching or supervising force of the normal college or of the training department of the normal college who shall have been engaged in said normal college or training department or elsewhere in the public school system of the city of New York for ten years and shall have been engaged in the work of teaching or of school or college supervision or of examination of teachers for licenses, or any two or more of said several kinds of work, during a period aggregating twenty years. The said board of education, upon the recommendation of the trustees of the normal college, may also, in its discretion retire any member of the teaching or supervising force upon his or her own application who shall have been engaged in the work of teaching or school or college supervision or examination of teachers for licenses, or any two or more such occupations, for a period aggregating thirty years. Upon such retirement, whether voluntary or otherwise, the person retired shall be entitled to receive an annuity out of the teachers' retirement fund of not less than one-half of the annual salary paid to such person at the period of retirement, and in case of the president or of a professor to such an additional sum per annum as will increase such one-half of the salary previously paid if not an even multiple of one thousand dollars to an even multiple of one thousand dollars. Any person retired under the provisions of this

act after thirty years of service, except as hereinbefore in this section provided in the case of the president or of a professor of the normal college, shall receive as an annuity one-half the annual salary paid to said person at the date of said retirement, not to exceed, however, in the case of a teacher or principal, the sum of fifteen hundred dollars per annum, and in the case of a supervising official, two thousand dollars per annum. And in no case shall the annuity of any person already retired or hereafter be retired after thirty years of service, be less than six hundred dollars. Any person retired after twenty years of service, but with less than thirty years of service, shall receive an annuity which bears the same ratio to the annuity provided for on retirement after thirty years of service as the total number of years of service of said person bears to thirty years. The annuities provided for by this act shall be payable in monthly installments. All retirements made under the provisions of this act shall take effect either on the first day of February or on the first day of September. The number of persons retired in any one year shall be so limited that the entire amount of the annuities to be paid for that year shall not be in excess of the estimated amount of the retirement fund applicable to the payment of annuities for that year. The words 'teaching and supervising staff of the public day schools of the city of New York' as used in this section, shall include the city superintendent of schools, the associate city superintendents, the district superintendents, the members of the board of examiners, directors and assistant directors of special branches, the supervisor and assistant supervisor of lectures, all principals, vice-principals, assistants to principals, heads of departments, and all regular and special teachers of the public day schools of the city of New York. Nothing in this act shall be construed as prohibiting the reappointment to active service, on his or her own application, of any person who has been retired under the provisions of this act. Upon the reappointment of such person the payment of the annuity of said person shall be discontinued. Teachers hereafter appointed in schools or classes maintained in the institutions controlled by the department of public charities or by the department of correction, shall be appointed by the commissioner of the appropriate department upon the nomination of the city superintendent of schools and shall be licensed by the board of examiners of the board of education. The department of education through such representatives as it may designate shall maintain an effective visitation and inspection of all such schools and classes."

Chap. 167, Apr. 18, 1907.

885. **New York:** Establishing a retirement fund for the pensioning retired school teachers, superintendents, supervisors, and heads of high school departments of the public schools of the city of Schenectady, and regulating the collection, management, and disbursement thereof.

Chap. 306, May 6, 1907.

886. **New York:** Establishing a retirement fund for teachers, principals, and supervisors of the public schools in the city of Albany, and regulating the collection, management, and disbursement thereof.

Chap. 414, June 4, 1907.

887. **New York:** Establishing a retirement fund for pensioning retired school teachers, superintendents, supervisors, and heads of high school departments of the public school system of Schenectady.

Chap. 116, Apr. 13, 1908.

888. **New York:** Establishing a retirement fund for pensioning teachers, supervisors, superintendents, etc., in the school system of Watervliet.

Chap. 140, Apr. 16, 1908.

- D 889. **Ohio (1900):** One whose name was on the teachers' roll of a city school district for twelve years, but who was not actually engaged in teaching therein during all of such period, a substitute having taken his place at one time, will not be entitled to a pension under the act of 1900 (94



Ohio Laws, p. 305), providing for a teachers' pension fund for those who have taught for twenty years, and for twelve years in such district.—*Venable v. Schafer*, 28 Ohio Cir. Ct. R., 202.

D 890. **Ohio (1906)**: Equity will endeavor to restore everybody who has acted under favor of the provisions of an unconstitutional act of the legislature, to his rights and their former statu quo; hence, the teachers' pension fund law of 1900 having been declared unconstitutional, one who had paid assessments under its provisions can recover the same, with interest, although he has no redress in the way of enforcing the provisions of such act.—*Venable v. Schafer*, 28 Ohio Cir. Ct. R., 202.

D 891. **Ohio (1906)**: In construing a statute a word should not be given a limited or specialized meaning unless such meaning is made by legislative enactment; hence, in the act of 1900 (94 Ohio Laws, p. 305), relative to the teachers' pension fund, the word "teacher," not being specifically restricted in its meaning, will comprehend within its purview such instructors as shall have spent a part of the time required in teaching in schools not supported in whole or in part by public taxation.—*Venable v. Schafer*, 28 Ohio Cir. Ct. R., 202.

892. **Pennsylvania**: Empowering boards of school directors, boards of school controllers, and central boards of education, in school districts of the second and third class, to establish and administer a teachers' retirement fund.

"SECTION 1. *Be it enacted, etc.*, That the Boards of School Directors, Boards of School Controllers, and Central Boards of Education, in school districts of the second and third class, are hereby authorized and empowered to establish and administer a teacher's retirement fund. The said fund shall consist of all funds available for like purposes at the time of the enactment of this law, together with such additions thereto as the Boards of School Directors, Boards of School Controllers, or Central Boards of Education may, from time to time, prescribe, and such moneys as may be donated or bequeathed for such purposes.

"SEC. 2. Any teacher, principal, or supervising official, retiring with the consent of the Boards of School Directors, Boards of School Controllers, or Central Boards of Education, shall receive from the said fund such annuity as the Boards of School Directors, Boards of School Controllers, or Central Boards of Education may prescribe."

Act No. 160, May 23, 1907.

893. **Rhode Island**: Providing for the pensioning of school teachers.

"SECTION 1. Any person of either sex who on the passage of this act or thereafter shall have reached the age of sixty years, and who for thirty-five years shall have been engaged in teaching as his principal occupation and have been regularly employed as a teacher in the public schools or in such other schools within this state as are supported wholly or in part by state appropriation and are entirely managed and controlled by the state, twenty-five years of which employment, including the fifteen years immediately preceding retirement, shall have been in this state, may at the expiration of a school year, unless his private contract with his employer shall otherwise provide, be retired by his employer or voluntarily retire from active service, and on his formal application shall receive from the state for the remainder of his life an annual pension equal to one-half of his average contractual salary during the last five years before retiring, but in no case shall such annual pension be more than five hundred dollars: *Provided, however*, that no such employment as teacher within this state after this act shall be included within its provisions, unless the teacher shall hold a certificate of qualification issued by or under the authority of the state board of education.

"SEC. 2. The state board of education shall make all needful regulations for issuing certificates of qualification and carrying into effect the other provisions of this act not inconsistent with the act itself, and shall examine into and determine the eligibility of each and every applicant to receive a pension under the provisions of this act.

"SEC. 3. For the purpose of carrying this act into effect the sum of ten thousand dollars or so much thereof as may be necessary is hereby appropriated out of any money in the treasury not otherwise appropriated.



and the state auditor is hereby directed to draw his orders on the general treasurer in favor of such persons and for such sums as shall be certified to him by the state board of education, according to the provisions of this act.

"Sec. 4. This act shall take effect on the first day of January, 1908,"  
Chap. 1468, Apr. 23, 1907. (Jan. 1, 1908.)

894. South Carolina: Amending secs. 1 and 5, act No. 544, Acts, 1898, relative to the creation and disbursement of a public school teachers' retirement fund in the city of Charleston.

Providing for a reservation of 8 per cent of the gross income of the special school fund paid on the 1 mill tax on and after January 1, 1907. Providing for use of surplus fund.

Act No. 335, p. 745, Feb. 7, 1907.

895. Utah: Providing for the retirement of public school teachers.

"Section 1. That upon the written request of a majority of the teachers in any city of the first or second class, or of any county, exclusive of cities of the first and second class, the Board of Education or the County Superintendent shall authorize the organization of a Public School Teachers' Retirement Commission.

"Sec. 2. Said commission shall be composed of seven members, viz: (a) Three members selected by the petitioning teachers or by the members of the Retirement Association after organization is perfected; (b) The Superintendent of the city or county, and the (c) Clerk of the Board of Education, if in a city, or the (c) County Clerk in county organizations, and (d) two members selected by the Board of Education from their members in districts of the first or second class, or (d) two members appointed by the county superintendent from boards of trustees within the county.

"The elective and appointive members of the Retirement Commission chosen by the Board of Education or appointed by the Superintendent shall serve for two years, except in organizing, when one shall be chosen or appointed for one year and one for two years, dating the term of office from the first Monday of the preceding February; and the members chosen by the petitioning teachers or the members of the Retirement Association shall be chosen for a term of three years, except in organizing, when one shall be chosen for one year, one for two years, and one for three years, the term of office dating from the first Monday of the preceding February, except when first organized, which may occur at any time during the year; the elective members shall be chosen between the first and twentieth days of January and shall take office on the First Monday of the succeeding February.

"Sec. 3. The members of the Retirement Commission who are chosen from the teaching body shall be elected at a meeting called by the Superintendent of the district or of the county, who shall cause each teacher serving within said district or county to be notified in writing of the time and place of such an election.

"Sec. 4. The officers of the Retirement Commission shall qualify by taking and subscribing the oath of office and filing the same with the county clerk. In cases of a vacancy in the elective membership of the said commission the vacancy shall be filled for the unexpired term by the commission choosing a member from the body that elected the outgoing member.

"Sec. 5. The Retirement Commission shall organize by election from their number a President and Secretary, who shall serve for one year and until their successors are chosen and qualified. The Commissioners shall serve without compensation, except the Secretary, who may, in the discretion of the Retirement Commissioners, receive not to exceed fifty dollars per annum for his services.

"Sec. 6. The Treasurer of the Board of Education in cities of the first and second class or of the county shall be the ex-officio treasurer of the funds of the Retirement Association, and his official bond as fixed by the Board of Education or County shall cover the moneys in said fund.

"Sec. 7. The funds of the Retirement Association shall be of two classes: (a) Permanent and (b) Current Fund. The treasurer shall

pay out money on warrants signed by the president and secretary of the commission. He shall have charge, under the direction of the commissioners, of the investment and management of the Permanent Fund, but the Permanent Fund shall be invested only in State, County, school district or municipal improvement securities within the State of Utah.

"Sec. 8. The Retirement Commission shall keep a record of all the proceedings and a record of all money received and paid out, all of which records shall be open for public inspection. It shall also make such reports from time to time to the state superintendent of public instruction or board of education or board of trustees as may be required.

"Sec. 9. When a board of Retirement Commissioners has been duly organized in any district or county, the superintendent of schools who has charge of said district or county shall cause each teacher within said district or county to be notified of the fact, and he or she shall, within thirty days, thereafter, reply in writing, accepting or declining membership in said Retirement Association. In case a teacher declines to become a member, he or she may only become a member thereafter by a two-thirds vote of all the commission and payment of all back dues, dating from the organization of said Retirement Association. All new teachers accepting employment under the board of education or trustees in any county subsequent to the organization of a Retirement Association within the district or county may contract and agree to the provisions governing membership in said association.

"Sec. 10. The income of the Public School Teachers' Retirement Association shall be from the following sources:

"(a) All teachers in the employ of the Board of Education or Boards of Trustees at the time of the organization of said Retirement Association and who have become members thereof, and all new teachers entering the employment of the Board of Education or Board of Trustees, shall have deducted from each and every payroll in payment for services one per cent of the face of said payroll, and the amount of said deduction shall be certified by the Clerk of the Board of Education or Board of Trustees monthly to the treasurer of the Association.

"(b) All amounts deducted from teachers' salaries on account of absence through sickness not to exceed five days in any one year for a teacher: *Provided*, that by a special resolution the Board of Education or Board of Trustees may, on account of a shortage of funds, withhold the payment of said deductions out for a period not to exceed one year at a time. All deductions belonging to this fund shall be certified to monthly by the Board of Education or Board of Trustees to the treasurer of the Association.

"(c) All moneys received from donations, legacies, gifts, bequests, or otherwise for or on account of said fund.

"Sec. 11. The first two sources of income, viz, 'a' and 'b' shall constitute the Current Fund, and the third source viz: 'c' shall constitute the Permanent Fund, unless specifically stipulated for the Current Fund in the donation, legacy, gift or bequest. No portion of the Permanent Fund shall be available for current expenditure, but the interest thereon shall become a part of the Current Fund.

"Sec. 12. There shall be two classes of beneficiaries under the Retirement Fund, viz, Class 'A' and Class 'B.'

"Class A. On the recommendation of the Retirement Commission, the Board of Education or Board of Trustees shall have power by two-thirds vote to retire any member of the Association who is mentally or physically incapacitated for the performance of duty: *Provided*, said teacher has taught in the district or county in which said district is located for at least five years, and whose term of service shall aggregate thirty years, whether before or after or partly before or after, the passage of this act. Each teacher so retired shall be entitled to receive as pension an annual salary equal to one half of the average annual salary drawn by said teachers for the five years preceding retirement, but in case his or her years of teaching shall not aggregate thirty years, he or she may be temporarily retired and shall be entitled to as many thirtieths of the half-salary as his or her years of service are a part of thirty. Any teacher who has been retired under this class and who recovers his or her mental or physical powers sufficiently to teach or earn a livelihood in some other manner, in the opinion of the Medical Inspector of the Board of Education, or

Board of Trustees, or of a physician selected by the Retirement Commissioners in case there is no Medical Inspector designated, shall cease to draw an annuity under this classification.

"Class B. Any member of the Retirement Association who has taught thirty years, one-third of which time has been in the district or county in which said district is located and who has reached the age of sixty years, shall, upon his or her request, or upon the recommendation of the Retirement Commissioners and a two-thirds vote of the Board of Education or Board of Trustees, without option, be placed upon the retired list, and shall be entitled to annual salary equal to one-half of the average annual salary of the five years preceding retirement.

"Sec. 13. Provided that any teacher who is retired under the provisions of either class 'A' or 'B,' and who at the time of retirement has not paid into the Retirement Fund a sum equal to one per cent of the entire salary received for the previous years of service claimed, shall have such an amount deducted from his or her annuity as shall equal the amount still due. This deduction may, in the discretion of the Retirement Commissioners, be distributed over a period not to exceed three years. Any teacher may, at the time of becoming a member of the association, be credited in full for all back payment covering previous years of service claimed by paying one-half of one per cent of all salaries earned during time of service claimed. Any teacher who is a member of a Retirement Association in the State of Utah and who accepts employment in a district or county outside of the bounds of his or her association shall, within thirty days thereafter, select which of two ways he or she prefers to continue his or her membership.

"1. A transfer of membership, or

"2. An absent membership.

"If the first mentioned is selected the secretary of the commission shall fill out on a paper form a report covering the necessary data concerning said teacher, which report, with the one-half of the amount of the money paid into the fund by or on account of said teacher as hereinafter provided, shall be accepted by any commission in the State as a complete record and payment of back dues of such teacher.

"If the second method is chosen a teacher may continue his or her membership by voluntarily sending annually to the secretary of the association the one per cent of his or her salary as certified to by the clerk of the board where he or she is employed.

"Sec. 14. Any teacher dismissed from the service of the Board of Education or Board of Trustees for cause shall be entitled to a refund of all money, without interest, paid into the retirement fund by said teacher.

"Any teacher voluntarily withdrawing from the services of the Board of Education or Board of Trustees shall be entitled to a refund of one-half the amount paid into said fund by said teacher, provided, he or she makes application in writing within three months for the refund.

"Sec. 15. In case of the death of a member of the Retirement Association the estate of said teacher shall be entitled to a refund of the total amount paid into said fund by said teacher.

"Sec. 16. If at any time the funds of the Retirement Association are not sufficient to meet the annuities and refunds hereinbefore specified, each annuitant and claimant shall be paid pro rata his or her proportion of the funds that are available.

"Sec. 17. The term 'teacher' as used throughout this bill shall include superintendent, supervisors, principals, and teachers.

"Sec. 18. The Retirement Commission is empowered to adopt such additional rules and by-laws for the carrying out of the provisions of this bill as are in harmony with its intents and purposes."

Chap. 111, Mar. 14, 1907.

896. Virginia: Providing a retirement fund for public school teachers.

"1. Be it enacted by the general assembly of Virginia, That whenever any person, not including superintendents, has taught in the public schools of this State an aggregate of twenty years, if said person has maintained a good record and by reason of physical or mental infirmity or old age is incapable of rendering efficient service as a teacher, or if said person has taught for twenty-five years in this State, and desires

to be retired, as herein provided, he or she may make application to the State board of education to be retired and pensioned as hereinafter provided. If the state board of education shall find the facts as above stated it shall place the name of the said person upon a list to be known as 'the retired teachers' list,' and the said board may, of its own motion, place any teacher on said list who has served for twenty years if said board shall deem it best for the good of the school system to take such action. A careful record shall be kept by the said board of the names of the teachers retired and pensioned under the provisions of this act, and every person so placed upon said list shall receive a pension as herein after provided.

"2. The fund; whence derived.—In order to provide a fund to pension said retired teachers all contracts with teachers shall provide that the chairman and clerk of the school board or other officers whose duty it is to pay public school teachers, shall deduct monthly from the salary of each teacher in the State a sum equal to one per cent. of his or her salary. Each teacher shall be furnished a statement showing the amount so deducted. The sum so deducted shall be promptly remitted by the officers deducting the same, through the office of the second auditor of Virginia, to the State board of education which shall immediately deposit the same with the State treasurer. All amounts so received shall be placed by the State treasurer to the credit of a fund to be called 'the retired teachers fund,' and an accurate account shall be kept of all funds so received.

"3. Appropriation.—The sum of five thousand dollars per annum, or so much thereof as may be necessary to carry out the purposes of this act, is hereby appropriated out of any moneys in the treasury not otherwise appropriated, to carry into effect the provisions of this act. The said sum shall be turned over to the State board of education and deposited as aforesaid with the State treasurer to be placed to the credit of the fund created by section two of this act.

"4. Legacies, bequests, et cetera.—All legacies, bequests, and funds derived from devises for the benefit of teachers under this act shall be paid over to the State board of education and shall be by it transferred as aforesaid to the treasurer of Virginia, to be placed to the credit of the fund provided for in section two of this act.

"5. The State board of education shall be permitted to invest the capital and unappropriated income of said 'retired teachers' fund,' as provided in the eleventh subdivision of section fourteen hundred and thirty-three of the Code with all the powers of investment or reinvestment granted by said section, and all securities belonging to said fund shall be deposited with the second auditor for safekeeping, who shall return with his annual report a list thereof with a statement of their value.

"6. What pensions to be paid.—The State board of education shall quarterly, on the first day of January, April, July, and October in each year issue its warrant on said fund signed by the president and secretary of said board as follows: A warrant shall be issued to the second auditor of Virginia for the benefit of each person whose name has been placed on said list for the quarter immediately preceding the time of payment for a sum equal to one-eighth of the annual salary earned by such person at the time he or she was placed on such list. And the second auditor shall issue his warrants to said persons accordingly. In no event, however, shall any quarterly pension exceed the sum of one hundred dollars, except that principals of schools may receive as a quarterly pension as much as one hundred and twenty-five dollars. In the event that the available funds shall, in the judgment of the State board of education upon a prudent and equitable appropriation of the same for any quarter, be insufficient to pay all pensions due for the quarter to the full amount thereof, then the same shall be paid pro rata, according to the amount of money that is available as aforesaid.

"7. The State board of education shall see that proper arrangements are made for keeping an accurate account of all moneys received, invested or disbursed under this act, and the superintendent of public instruction shall include a full statement of all the transactions of said fund in his annual or his biennial report. The State board of education shall require proper and sufficient bonds from the person, or persons,



charged with the management or custody of said funds, except in the cases of the State treasurer and second auditor, whose official bonds shall cover the said funds; for the proper application of which they and the sureties on their official bonds shall be liable."

Chap. 313, Mar. 14, 1908.

897. Wisconsin: Creating sec. 925—xx, Statutes, 1898, providing for a public school teachers' retirement fund in cities of the first class (Milwaukee).

"SECTION 925—xx. 1. Two female teachers, two male teachers and four members of the board of school directors, in cities of the first class shall constitute in their respective cities, a board of trustees for the purpose herein set forth. The teachers who shall elect to come under the provisions of this act shall hold their first annual meeting on the first Saturday of October, 1907, and shall elect by ballot one female teacher who shall hold office for a term of one year, one female teacher who shall hold office for a term of two years, one male teacher who shall hold office for a term of one year, and one male teacher who shall hold office for a term of two years; and a majority of all the votes cast shall be necessary in each case for an election. Such meeting shall be called by the secretary of the school board by giving due notice to all such teachers of the hour and place where the meeting shall be held. Annually, thereafter, at a meeting duly called by the board of trustees on the first Saturday of October, one female teacher and one male teacher shall be elected in the same manner for a term of two years. The boards of school directors of cities of the first class shall, at their regular meeting in October, 1907, elect two of their number to be members of the board of trustees for a term of one year, and two of their number to be members of the board of trustees for a term of two years; and annually thereafter, at their regular October meetings, the boards of school directors shall elect one of their number to be a member of the board of trustees for a term of two years. The board of trustees shall organize within ten days after the regular October meeting of the board of school directors by the election from their members of a president and a secretary, and may adopt rules of order not inconsistent with this act. In case of vacancy, the board of trustees shall, within ten days after its occurrence, fill the same for the unexpired term.

"2. A teachers' retirement fund is hereby created in cities of the first class, and the fund shall consist of: A permanent and a general fund.

"The permanent fund shall be made up of gifts and legacies specifically given to said permanent fund, and the sums set apart by the board of trustees.

"The general fund shall be made up of:

- "(a) Gifts and legacies not specifically given to said permanent fund.
- "(b) All amounts retained from salaries of teachers under the provision of this act, and the interest derived from said permanent fund.
- "(c) The board of school directors in cities of the first class may pay out of the school fund into the teachers' retirement fund a sum not to exceed one per cent. of the gross receipts raised by taxation for school purposes.

"(d) All moneys obtained by such other methods of increment as may be duly and legally devised for the increase of said fund.

"The general fund may be drawn upon for the purpose of this act by said board of trustees.

"3. Said board shall have control of the retirement fund, investing the same only in such securities as savings banks are authorized by law to invest in. The board shall receive and consider all applications for annuities under this act, and when in their opinion the best interests of the school are served by the retirement of the applicants, shall determine and direct payment of the annuities. The board shall keep full and complete records of the receipts and disbursements of this fund and a complete list of all annuitants, and shall make a report of the same at each annual meeting of the teachers in October. All necessary expenses incurred by the board in carrying out the provisions of this act shall be paid out of the retirement fund, in accordance with the votes of the board. The members of the board shall serve without compensation. Whenever any member of the board shall cease to hold a position as member of the



board of school directors, or as teacher in the public schools, his or her membership in the board shall thereupon cease.

"4. The city treasurer shall be the custodian of the retirement fund, and shall make payments therefrom as ordered by the board of trustees.

"5. Beginning with the monthly payments in November, 1907, the board of school directors shall reserve from the salary of each teacher who has come under the provisions of this act the sum of four dollars (\$4.00), and from every monthly payment thereafter for a period of twenty-five years, shall reserve the sum of two dollars (\$2.00), and shall pay the sums so reserved into the school teachers' retirement fund, as herein provided.

"6. The city treasurer upon the order of the board of trustees, shall pay out of said retirement fund, in monthly payments, such an annuity to any teacher who shall retire from the service of the city, as the fund will allow, and said board of trustees shall determine; but in no case shall a teacher receive such annuity unless such teacher has taught for twenty-five years, and for at least fifteen years in the public schools of the city or cities to which this act applies, except as hereinafter provided.

"7. All annuities granted by the board of trustees under the provisions of section six shall be uniform in amount except as provided in section eight of this act.

"8. No annuity shall be paid to any teacher until such teacher shall have contributed to the general fund a sum equal to all the assessments for twenty-five years, to-wit: five hundred dollars. Should any teacher retire under section six and be unable to pay the full amount of assessments as above specified, the board of trustees shall pay to such retiring teacher an annuity directly proportionate to the amount of money paid by such retiring teacher into the public school teachers' retirement fund.

"9. Any teacher who shall have been a contributing member, who shall retire from the service, not being in receipt of an annuity, shall, if an application is made within three months after date of his retirement, receive one-half of the total amount paid by him into the retirement fund.

"10. All annuities granted under the provisions of this act shall be exempt from attachments and garnishment process, and no annuitant shall have the right to transfer or assign his or her annuity, either by way of mortgage or otherwise.

"11. All elections or appointments of teachers by the board of school directors shall be subject to the provisions of this act, and all such elections and appointments shall be on probation; but on a successful probation of four years the election or appointment shall become permanent during efficiency and good behavior. No teacher who is a contributor of said fund, and whose position has become permanent by virtue of successful probation, shall be removed or discharged by the board of education except for cause upon written charges. The teacher shall receive a copy of such written charges at least three days before the hearing thereof.

"12. This act shall be binding on all teachers employed in cities of the first class at the time of its enactment, who shall thereafter elect to come under its provisions. Notice in writing to the superintendent of schools shall constitute such election. All teachers not employed in cities of the first class at the time of the enactment of this law, who may be elected or appointed subsequent thereto, shall be bound by the provisions of this act, when their respective appointments shall have become permanent as herein provided.

"13. The term 'teacher' in this act shall include all superintendents, principals, and regular instructors employed in the public schools of cities of the first class, provided, however, that the election or appointment of the superintendent, the assistant superintendents, and special supervisors shall not be affected by paragraph eleven of this act."

Chap. 453, June 25, 1907,

## G. TEACHERS: PROFESSIONAL TRAINING AND EDUCATION.

## (a) University Departments and Schools of Education.

For the biennium 1904-1906 legislation indicated a growing interest in those institutions and activities established for the higher educational instruction and training of teachers. The record for the present biennium displays little of a positive or constructive character. Kentucky (898) and North Dakota (898a) each organized the department of education of the state university upon a collegiate basis. Tennessee (898b) passed a necessary amendment to the act of 1905, providing for the establishment of the George Peabody College for Teachers.

898. **Kentucky:** *See enactment No. 1397.*

898a. **North Dakota:** *See enactment No. 1400.*

898b. **Tennessee:** Repealing chap. 211, Acts, 1905, relative to establishment of a college for the higher education of teachers and enacting a substitute.

Appropriating \$250,000 (formerly \$25,000 annually for ten years) for the establishment, support, maintenance, and use of the George Peabody College for Teachers, an institution for the higher education of teachers for the Southern States, the successor of the Peabody Normal College. This appropriation one of the conditions of the endowment of \$1,000,000 to be provided by the trustees of the Peabody Education Fund.

Chap. 19, Jan. 29, 1907.

## (b) State Normal Schools.

The legislation with reference to the establishment of state normal schools in the Southern States comprises the most important part of such legislation during the two years covered. The enactments in Alabama (899-902), Kentucky (909), North Carolina (912, 913), and Virginia (919) are the chief ones of these. The establishment of a state normal school in Arkansas (903) marks a new epoch in the educational history of that State. The organization of a single board of regents for the normal schools of Oregon (917) and the institution of an investigation of the normal schools of Vermont (918) are worthy of special note. Wisconsin (921) continued her legislation of 1905 with reference to the new normal school at La Crosse by making a large appropriation for the erection of a building.

899. **Alabama:** Amending sec. 2 of an act establishing a state normal school for the education of white female teachers and students at Livingston. Relating to appointments, composition, duties, etc., of board of trustees.

Act No. 93, p. 167, Feb. 23, 1907.

900. **Alabama:** Amending sec. 3002, Code, 1896, as amended by act No. 187, p. 233, Laws, 1903, relative to apportionment of school fund.

Increasing appropriations for designated normal schools from \$10,000 to \$15,000.

Act. No. 120, p. 187, Feb. 28, 1907. (Sec. 1761, Code, 1907.)

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901. **Alabama:** Establishing a normal school for the education of white male and female teachers at Daphne.

Providing for appointment and constitution of board of six trustees, and prescribing duties. Prescribing conditions of admission of students. Making annual appropriation of \$2,500. Baldwin County to furnish building and grounds.

Act No. 261, p. 327, Mar. 4, 1907.

902. **Alabama:** Establishing normal school for education of white male and female teachers at Moundville.

Providing for constitution, powers, and duties of board of trustees; admission of students; annual state appropriation, \$2,500. Local community to provide building and grounds.

Act No. 720, p. 656, Aug. 13, 1907.

- 903\*. **Arkansas:** Providing for the establishment and maintenance of a state normal school.

Creating the Arkansas State Normal School; providing for a state normal school board; fixing the term of office of appointed members; making state superintendent of public instruction chairman of board; defining powers and duties of board; providing for free scholarships in each county; making tuition free to citizens of the State only and fixing certain fees; authorizing board to issue diplomas having the value of a professional license good for six years; requiring board to report biennially to the legislature; appropriating \$15,000. Board to receive propositions and to decide upon location of school. Offers of location to include at least twenty acres of land for a site and \$15,000 for buildings.

Act No. 317, May 14, 1907.

904. **California:** Authorizing transfer of moneys from the salary fund of the state normal school at San Francisco to the printing fund of said school.

Transferred funds to be available during 1907 and 1908 for the purpose of replacing such pamphlets and other materials, destroyed by the fire of April, 1906, as were prepared and used by the faculty of said school in the training of teachers.

Chap. 366, Mar. 19, 1907.

905. **Connecticut:** Providing for the erection of a building for the state normal school at Willimantic and making an appropriation therefor.

Building for model and practice school; cost, \$50,000. Town of Willimantic to provide site and one-third of cost.

Special acts No. 500, Aug. 1, 1907.

- D 906. **Florida (1905):** Laws, 1905, chap. 5384, in expressly providing for a colored normal school and also for a normal department to the University of the State of Florida, and conferring on the state board of education and state board of control, acting jointly, authority to establish and maintain a normal department for the instruction of white female teachers in the Florida Female College at any time it may be deemed necessary, sufficiently complies with Const. art. 12, sec. 14, relating to such normal schools.—*State v. Bryan*, 39 So., 929.

907. **Georgia:** See enactment No. 1396.

908. **Illinois:** See enactment No. 1157.

- 909\*. **Kentucky:** Repealing, and reenacting with amendments, secs. 1, 11, 20, and 26, chap. 102, Laws, 1906, relative to the establishment of a system of state normal schools, etc., and adding two new sections.

Fixing the boundaries of the eastern and western normal school districts. Defining grades of teachers' certificates to be granted. Requiring the president of each normal school to make annual report (formerly the president of the board of regents). Making county, instead of legislative district, the unit of choosing pupils for gratuitous instruction, and modifying the conditions of such.

Granting to boards of normal schools power to lease and purchase real estate or acquire the same by condemnation. Authorizing the examination of normal-school students for teachers' certificates in counties in which normal school is located, and providing for the transmission of examination papers and the granting of certificates in another county.

Chap. 62, Mar. 24, 1908.

- 909a. **Maryland:** Adding secs. 189 and 190 to art. 77, Public General Laws, 1904, relative to a normal school for colored teachers.

Accepting for the state buildings, equipment, etc., of the Baltimore normal school. Appropriating annually \$5,000 for support.

Chap. 599, p. 230, Apr. 8, 1908.

910. **Massachusetts:** Providing for agricultural education in the state normal school at North Adams.

Conditioned upon contribution of suitable land by city for free use for ten years. Appropriating \$2,500.

Chap. 257, Mar. 23, 1908.

911. **Nebraska:** Repealing, and reenacting with amendments, sec. 11186, Coby's Annotated Statutes, 1903, relative to admission of pupils to state normal schools.

Pupils must possess at least a two years' high-school education or its equivalent. Exceptions as to junior normals and the summer sessions of the normal schools.

Chap. 127, Apr. 5, 1907.

912. **North Carolina:** See enactment No. 148.

913. **North Carolina:** Amending secs. 4182 and 4186, Revised, 1905, relative to state normal schools for the colored race.

Increasing number of directors from five to six, and prescribing terms of office, conditions of vacancy, and organization. Providing for superintendent of colored normal schools, fixing his salary and defining his duties. Making special annual appropriation of \$10,000 for buildings, equipment, and repairs.

Chap. 856, Mar. 9, 1907.

914. **North Dakota:** Amending sec. 1082, Revised Codes, 1905, relative to the objects of normal schools.

Course of study shall not extend more than two years beyond the course of study prescribed in a high school of the first class.

Chap. 100 (in part), Mar. 19, 1907.

915. **North Dakota:** Amending sec. 1172, Revised Codes, 1905, relative to the industrial school and school for manual training.

Name of school changed to State Normal and Industrial School. Object extended so as to include preparation of teachers with special reference to manual training.

Chap. 241, Mar. 23, 1907.

916. **North Dakota:** Referring to next legislature amendment to sec. 216, Const., 1889.

Normal school established at Minot.

P. 453, Mar. 11, 1907.

917. **Oregon:** Repealing secs. 3471 to 3489, secs. 3491 to 3500, secs. 3500 to 3507, relative to state normal schools, and enacting substitutes.

Abolishing the several existing normal-school boards and creating a board of regents of normal schools; defining powers and duties of boards. Prescribing uniform course of study for normal schools. Creating board of visitors for each normal school. Authorizing establishment of model schools.

Chap. 189, Feb. 25, 1907.

**918. Vermont:** Relating to investigation of normal schools.

"That a commission consisting of five members, to be appointed by the governor, is hereby created and empowered to consider the present status and equipment of the normal schools of the State, to compare the same with the normal school facilities of other States, and to report to the general assembly at the biennial session of 1908 their findings and recommendations by bill or otherwise. Said commission is empowered to call for and examine persons, books and papers, in relation to the normal schools.

"Said commission shall serve without pay but the auditor of accounts shall draw orders on the state treasurer for the necessary expenses of the members of said commission in pursuance of the purposes of this resolution."

Jt. Res. No. 500, Dec. 14, 1906.

**919. Virginia:** Relating to the establishment of state normal and industrial schools for women at Harrisonburg and Fredericksburg.

Appropriating \$75,000, and providing for supervision, management, and government by boards of trustees. Prescribing powers and duties, conditions of admission of pupils, etc.

Chap. 284 (Gen. Approp.), T. 428, Mar. 14, 1908.

**920. Washington:** Relating to the model training school departments of normal schools, authorized by sec. 2550, Annotated Codes and Statutes, 1897.

Providing for the attendance of pupils upon such schools, for reports of attendance, and for apportionment of state school funds.

Chap. 97, Mar. 11, 1907.

**921. Wisconsin:** Appropriating a certain sum of money to the normal school fund income to build a normal school at La Crosse.

Regents to erect a normal school at La Crosse; appropriation, \$210,000; plan and contract subject to approval by the governor.

Chap. 280, June 21, 1907.

**(c) County and Local Normal and Training Schools.**

In all grades of public schools the greatest demand of the present is for more and better trained teachers. The demand for qualified teachers in villages and cities has in the great majority of States greatly exceeded the supply of graduates from the state normal schools and other schools for the professional training of teachers. But nowhere is the need more pressing than in the case of the schools of rural districts. Even without this excess of demand, the difficulty of making the teachers' position in the rural school, under the existing conditions of meager compensation and social isolation, desirable to those completing the longer and more complete training courses of the state normal schools, has long been recognized. Certain States have attempted to meet directly the need for better rural school-teachers through the establishment of "county normal schools" or "county normal-school training classes," where the students, who otherwise would go directly into the work of teaching, are given one year, more or less, of special training calculated to fit them for more effective service in the rural schools. Wisconsin has been one of the leaders in this movement, and the success of the plan in that



State is borne out by the recent enactment (927) increasing the number of these schools from twelve to twenty. Nebraska (922b) has a somewhat different plan for supplying a minimum amount of professional training. The amended measure in that State is testimony of the effectiveness of the so-called "junior normal schools."

The several acts relative to professional training of teachers in high schools—Nebraska (923), Vermont (925), and Virginia (926)—are clearly indicative of the character of the demands in those States for more skillful teachers, especially for the rural schools.

The Indiana measure (922) is easily the most important one of this group. Its presentation in full seems to be warranted.

922\*. Indiana: Concerning normal schools and the training and licensing of teachers.

"SECTION 1. *Be it enacted* . . . That the state board of education, in addition to its present powers and duties, shall be and is hereby constituted a state teachers' training board, and, as such, is authorized and directed to arrange for a regular system of normal school instruction throughout the state; to designate what schools and what professional departments in schools shall be accredited in the state system of normal school instruction; to fix conditions upon compliance with which present and future schools and departments may become accredited as a part of such system; to establish, inspect, pass upon and approve, reject, alter, amend, or enlarge courses of study and teaching in the several accredited normal schools and the accredited professional departments in schools of the state; and to determine upon credits to be allowed for the work of accredited schools and departments, and equivalents, if any, to be accepted for such work or any part thereof. Said board shall make no rule, regulation or requirement applying to any accredited school or department which shall not under like circumstances apply to each and every accredited school and department in the state, nor shall any requirement be in excess of the requirements of the Indiana state normal school; it being the purpose and intent of this act that all schools and departments for normal instruction and the training of teachers shall maintain as nearly as possible like standards of excellence and efficiency.

"SEC. 2. The state teachers' training board shall have power and authority to prescribe courses of study upon completion of which graded certificates of work done may be granted by any such accredited school, which certificate shall be recognized by the Indiana state normal school so far as such certificates meet the requirements of said school's course.

"SEC. 3. In order to encourage trained teachers to teach in the district schools and in the grades in the small towns of the state, each accredited school and the state normal school may, subject to the rules and regulations of the state teachers' training board, establish a two-year course open to high school graduates, the completion of which will be accepted in lieu of a license and will entitle one to teach in the district schools and the grades in the small towns for three years without examination.

"SEC. 4. After two years from graduation, upon satisfactory evidence of professional experience and ability to instruct and manage a school, under rules and regulations therefor to be established by said state teachers' training board, graduates of any accredited school or department shall be entitled to diplomas to be issued by said accredited school, stating the character and amount of work completed.

"SEC. 5. Said state teachers' training board shall grant to each school and department accepting the provisions of this act and agreeing to be bound by the rules and regulations of said board the right to use the word 'accredited' as a part of the title or name of such school or department, which right shall be revoked by said board at any time upon the refusal of any such school or department to abide by any rule or regulation of said board.

"Sec. 6. It shall be unlawful for any school or department for normal instruction and the training of teachers which has not accepted the provisions of this act or whose authority under this act has been revoked to use the word 'accredited' as a part of its name or title or to state that such school or department has been accredited. If any officer, employee, agent, owner, or part owner, or instructor or teacher in any school or department for normal instruction and the training of teachers which has not been accredited as provided herein or whose authority hereunder has been revoked as herein provided, shall use the word 'accredited' as a part of the name or title of such school or department, or shall publish, advertise, announce or say that such school or department is accredited, upon conviction of the same, he shall be fined in any sum of not more than five hundred dollars."

Chap. 230, Mar. 11, 1907.

922a. **Maine:** Making special appropriation to Lee Normal Academy.

Appropriating \$1,000 for each of the years 1907 and 1908 for the payment of instruction, provided that special and systematic instruction in the science and art of teaching is given. State superintendent of public schools to be ex-officio a member of board of directors. Additional appropriation for repairs.

Resolves, chap. 56, Feb. 23, 1907.

922b. **Nebraska:** Repealing, and reenacting with amendments, secs. 20, 21, 22, 23, and 24, subdiv. 13, chap. 79, Compiled Statutes 1905 (secs. 11193 to 11196, Cobbey's Annotated Statutes, 1903), relative to junior normal schools.

Increasing minimum number to be established from three schools to five, and maximum number from five schools to eight. Fixing annual term at not less than six nor more than eight weeks (formerly, not less than ten weeks). Providing for relocation of institutes in cases of emergency. Providing for use of three-fourths of institute fund of county in which junior normal school is established, and for the designation of one week of the junior normal school as institute week. Providing for courses of study, and authorizing elementary state certificate to those completing prescribed elementary course of study of the state normal school in the junior normal school.

Chap. 428, Mar. 27, 1907.

923. **Nebraska:** Providing for normal training in high schools.

Authorizing state superintendent to designate the schools in which such training shall be given, to prescribe the conditions of admission to normal training classes, the course of instruction, and the rules and regulations under which such instruction shall be given.

"In approving a high school for normal training as contemplated in this act, the state superintendent shall be governed by the following general requirements:

"1. A high school in order to be approved for normal training must be a school accredited to the University of Nebraska.

"2. At least two teachers exclusive of the city superintendent shall give their entire time to instruction in high school branches.

"3. Normal training as provided in this act shall be given in the eleventh and twelfth grades. Credit for such training shall be given upon the completion of the prescribed course in normal training and the regular high school course of study.

"4. The course in normal training shall be elective, and shall consist of the three following lines of study:

"(a) A review for at least nine weeks in each of the following subjects—reading, grammar, arithmetic, and geography—to be given not earlier than the tenth grade. This work shall include subject matter, underlying principles and methods of teaching, and should enable the student to approach the subject from the standpoint of the teacher as well as that of student. It shall be given by well-trained, experienced teachers.

"(b) A study of American history for at least one semester in the eleventh or twelfth grade.

"(c) At least seventy-two periods of professional training to include a study of methods, school management, observation work, etc., etc., to be given in the senior year by the city superintendent of schools or by a member of the high school faculty recommended by him and approved by the state superintendent of public instruction.

"5. Schools offering this course shall have a reference library of at least three volumes on each of the following fields of professional study—history of education, principles of education, methods, and special training in industrial education, including agriculture.

"6. In case elementary agriculture is not in the regular course of study it shall be required in the course in normal training.

"7. Every high school approved for normal training shall instruct a class of not less than ten, and every scholar admitted to such class shall continue under instruction not less than eighteen weeks in order to be counted in such class."

Appropriating \$50,000 for the biennium ending March 31, 1909; providing biennial state aid of \$700 to each district organizing and conducting a class of not less than ten.

Chap. 129, Apr. 10, 1907.

924. North Carolina (1908): The issuance of county bonds to aid in the establishment of a training school for teachers in accordance with the provisions of chap. 820, p. 1185, Acts, 1907, and carried out by Acts, 1907, p. 733, chap. 493, is for a "public purpose," and not violative of the constitution, as not within the scope and purpose of a municipal corporation.—Cox v. Commissioners of Pitt County. 60 S. E., 516.

925. Vermont: Repealing sec. 643 (relative to training departments for teachers in incorporated graded schools) and sec. 656 (defining graded school). Statutes, 1894.

See act No. 60, Dec. 18, 1906—enactment act No. 357.

Act No. 46, Dec. 19, 1900.

926. Virginia: Providing for normal instruction in certain public high schools to be designated by the state board of education, and appropriating money therefor.

Appropriating annually \$15,000 for the payment of teachers in normal departments of approved high schools. Maximum annual amount to any one school \$1,500; state board of education to designate schools, and prescribe normal course of study, qualifications of normal teachers, etc. Chief object of work to instruct teachers in the best methods of organization, teaching, and management of primary schools in rural districts.

Chap. 67, Feb. 25, 1908. (July 31, 1908.)

927. Wisconsin: Amending chap. 373, Laws, 1901, as amended by sec. 4, chap. 338, Laws, 1903; amending chap. 373, Laws, 1901, as amended by sec. 5, chap. 338, Laws, 1903, as amended by sec. 5, chap. 500, Laws, 1905, and adding sec. 6, relative to the number of county training schools for teachers that may be organized, and the duties of the state superintendent in relation to such schools.

Taking from state superintendent power to determine qualifications of all teachers employed in such schools.

Increasing maximum number of schools that may be established from twelve to twenty.

Prohibiting any member of county training school board from teaching in any such school during term of office; and requiring every teacher to be legally qualified for position of principal of a free high school having a four-year course of study.

Chap. 601, July 12, 1907.

## (d) Teachers' Institutes and Summer Schools.

The number and character of the enactments on this subject clearly show that the teachers' institute and the summer school are to be developed in a larger way by no small number of States. The enactments in Florida (931), (932), relative to teachers' summer training schools, in Idaho (933) providing for summer normal schools, in Indiana (935) providing for annual teachers' institutes in each county, in Minnesota (936) providing for summer sessions at the state normal school, in New Jersey (939) establishing summer courses in elementary agriculture, manual training, and home economics for teachers, and in Utah (944) providing for the better organization and control of teachers' institutes, seem to offer abundant evidence of the trend of educational practice in this one particular.

928. **Arizona:** Amending subdv. 3, sec. 17, act No. 89, Acts, 1903, relative to duties of state superintendent of public instruction.

Adding provision that 5 per cent of the apportionment of the territorial school fund to the several counties shall be placed to the credit of the institute fund by the county treasurer.

Sec. 13, chap. 67, Mar. 21, 1907. (July 1, 1907.)

929. **Arizona:** Amending para. 2158-2163 (secs. 29-34, chap. 5, tit. 19), Revised Statutes, 1901, relative to teachers' institutes.

Minor amendments regarding institute funds, payment of institute expenses, record of attendance, etc.

Annual institutes must be held in all counties having twenty or more (formerly ten) school districts.

Sec. 16, chap. 67, Mar. 21, 1907. (July 1, 1907.)

930. **Arkansas:** Amending act No. 311, Acts, 1905, relative to the improvement of the character of teaching.

Providing for appointment, by county examiner, of conductor for annual institute for negro teachers. Providing that all the time of the institutes be devoted to work in the common branches; for reports from teachers in accordance with requirement of state superintendent of public instruction; for indorsement of certificates. Requiring attendance for full time of institute. Special provision for teachers attending Perseby institutes or other institutes or summer normal schools.

Act No. 367, May 23, 1907.

931. **Florida:** Requiring teachers' summer training schools and making appropriations therefor.

Appropriating \$4,000 annually for 1907 and 1908 for the purpose of maintaining such schools, provided impartially for teachers of both races: at the University of Florida and the Florida Female College for white teachers, and at the Colored Normal School for colored teachers; by such instructors as the state superintendent of public instruction may appoint and at such time as he may designate.

Chap. 5652 (No. 57), May 7, 1907.

932. **Florida:** Making an appropriation to secure a better attendance upon teachers' summer training schools.

Appropriating \$2,500 annually for years 1907 and 1908 to pay the travelling expenses, one way, to the nearest teachers' summer training school, of teachers or prospective teachers, living in the State but outside the county in which the school is held. Requiring such teachers to make affidavit in writing to state superintendent that they intend to teach in Florida at least one year.

Chap. 5655 (No. 60), May 25, 1907.



933\*. **Idaho:** Providing for summer normal schools, creating a commission for the management thereof, and making appropriation therefor.

Providing for three summer normal schools under the control of a commission consisting of the state board of education and the principals of the Lewiston and Albion state normal schools. Prescribing powers and duties of commission, location of schools (three), terms and fees of admission, length of session, etc.; appropriating \$6,000 for the biennium 1907 and 1908.

H. B. No. 55, p. 225, Mar. 12, 1907.

934. **Indiana:** See enactment No. 814.

935. **Indiana:** Providing for annual teachers' institutes in each county.

Chap. 51, Feb. 25, 1907.

936\*. **Minnesota:** providing for summer sessions at each of the state normal schools.

Sessions to be for twelve weeks. Arrangements to be such as to conserve most fully the welfare of rural schools. Appropriating \$30,000 annually for the biennium 1907-1909. Appropriations under section 1435, Revised Laws, 1905, not to be used.

Chap. 164, Apr. 12, 1907.

937. **Montana:** Amending secs. 1900, Political Code, 1895, art. 12, chap. 6, tit. 3, part 3, Political Code, 1895, Ann. Sec. 1904, Political Code, 1895, as amended by S. B. No. 44, page 129, Laws, 1897, relative to county teachers' institutes.

Providing for joint institutes. Increasing appropriations for institutes by county commissioners.

Chap. 148, Mar. 7, 1907.

938. **Nebraska:** Repealing and reenacting with amendments, sec. 11149, Cobby's Annotated Statutes, 1903, relative to teachers' institutes.

Annual institutes to be held during the months of June, July, and August.

Chap. 124, Mar. 7, 1907.

939. **New Jersey:** Establishing summer course in elementary agriculture, manual training, and home economics.

State board of education to prescribe rules and regulations, and designate places. Providing for certificates to teachers upon completion of courses. Appropriating conditionally, annually, \$2,000.

Chap. 55, Apr. 1, 1908.

940. **North Dakota:** Amending in a minor manner sec. 802, relative to institute funds.

Sec. 8, chap. 95, Mar. 19, 1907.

941. **Ohio:** See enactment No. 866.

942\*. **Oklahoma:** Repealing art. 9, chap. 73, Statutes, 1893, and art. 10, chap. 33, Laws, 1905, relative to county institutes, and enacting a substitute, incorporating sundry amendments.

Prescribing general character of course of study of institutes. Providing for the renewal of teachers' certificates under certain conditions of attendance upon institutes. Providing for separate institutes for negro teachers. Prescribing duties of conductors and county superintendents.

Chap. 77, H. B. 103, p. 675, May 12, 1908.

943. **Pennsylvania:** Amending act No. 104, Laws, 1905, regulating the time of holding city teachers' institutes.

Extending provision of act so as to include boroughs. Limiting time for holding such institutes to school year.

Act No. 46, Apr. 4, 1907.



944. **Utah:** Amending sec. 1793, Revised Statutes, 1898, relative to annual teachers' institutes.

Creating a governing board for the holding of county teachers' institutes, composed of the state superintendent of public instruction, the principal of the state normal school, and the county superintendent. Providing for instruction and instructors; also for union institutes.

Chap. 121, Mar. 23, 1907.

945. **Vermont:** Amending sec. 602, chap. 32, Public Statutes, 1894, as amended by sec. 2, act No. 20, Acts, 1902, relative to educational meetings.

Removing provision that such meetings may be held only when no institute or summer school is held. Daily and annual expense not to exceed allowance for summer school.

Sec. 1, act No. 44, Nov. 8, 1906.

946. **Washington:** Amending sec. 100, chap. 118, Laws, 1897 (Code of Public Instruction), relative to county institutes.

Authorizing city superintendents in districts employing more than 100 teachers to hold institutes.

Sec. 4, chap. 163, Mar. 13, 1907.

## H. SCHOOL POPULATION AND ATTENDANCE.

### (a) General.

947. **Ohio:** Repealing, and reenacting with amendments, sec. 4002-9, Revised Statutes (1905), relative to relief to enable children to attend school.

Relief cases to be cared for by board of education, instead of authorities charged with care of the poor.

H. B. 1172, p. 477, May 9, 1908.

948. **Pennsylvania:** Regulating the entrance of beginners into the public schools.

Authorizing school boards to confine the admission of beginners into the public schools to certain periods, at least two of not less than one week each, during the school year. Defining term "beginner."

Act No. 246, May 31, 1907.

### (b) School Census.

Two factors—the apportionment of school funds on the census basis and the enforcement of compulsory education laws—continue to contribute to the increasing importance of an accurate and complete school census as a basis for many features of effective educational administration. Of the enactments here grouped together, that of New York (959), establishing a permanent census board in the city of New York; will perhaps be of the widest interest. To the students of the compulsory education problem in cities the plan proposed by this measure seems to afford an effective means for the enforcement of the compulsory education law. The enactments in Alabama (949), in Connecticut (951), in Louisiana (953), in Montana (957), in North Dakota (961), in Ohio (962), and in Washing-

(on (965) are representative of the persistence of the effort to make the school census serve a real purpose.

949. **Alabama:** Providing for school census.

Providing for school census by local authorities during July, 1908, and biennially thereafter; for reports, for compensation of enumerators, and for penalties for false enumeration.

Act No. 771, p. 754, Aug. 14, 1907. (Secs. 1717, 1718; Code, 1907.)

950. **California:** Adding sec. 1641 to Political Code, 1906, defining "census children."

Children between the ages of 5 and 17 years, including children of Indian parents who pay taxes and who are not living in tribal relations, declared to be census children for all school purposes.

Chap. 85, Mar. 5, 1907.

951. **Connecticut:** Amending secs. 2252, 2255, and 2167, General Statutes, 1902, concerning the enumeration of children.

Requiring enumeration in districts and towns to include number of children not in school, together with reasons for nonattendance, and number employed, together with name of employer.

Chap. 31, Apr. 11, 1907.

952. **Idaho:** See enactment No. 1534.

953. **Louisiana:** Amending and reenacting sec. 2, act No. 129, Acts, 1898, providing for the enumeration of the educable children in the parish of Orleans.

Enumeration to include deaf, dumb, and blind children.

Act No. 48, June 20, 1908.

954. **Michigan:** See enactment No. 1552.

955. **Mississippi:** Amending sec. 4579, Code, 1906, relative to the enumeration of educable children.

Changing time of taking census from "during 1902 and every four years thereafter," to "during 1908 and every four years thereafter."

Chap. 202, Feb. 14, 1908.

956. **Montana:** Amending art. 2, chap. 6, part 3, tit. 3, Political Code, 1895, relative to the duties of the county superintendent of schools, by adding sec. 1745, regarding school census.

Requiring county superintendent to prepare and transmit copy of school census of children under 17 years of age to the commissioner of the bureau of agriculture, labor, and industry. Providing penalties.

Chap. 17, Feb. 18, 1907.

957. **Montana:** Amending par. 3, sec. 1830, chap. 6, art. 6, part 3, tit. 3, Political Code, 1895, as amended by H. R. No. 177, p. 121, Laws, 1901, relative to the taking of the school census.

Prescribing that census shall include age and date of birth of child.

Chap. 97, Mar. 5, 1907.

958. **New Jersey:** Authorizing school district boards to take school census every five years.

Chap. 118, May 7, 1907.

959. **New York:** Relative to a school census. Repealing chap. 550, Laws, 1895.

"SECTION 1 A permanent census board is hereby established in each city of the first class. Such board shall consist of the mayor, the superintendent of schools, the police commissioner or officer performing duties similar to those of a police commissioner. Such board shall have power to make such rules and regulations as may be necessary to carry out the

provisions of this act. Such board shall have power to appoint a secretary and such clerks and other employees as may be necessary to carry out the provisions of this act and to fix the salaries of the same. Such board shall ascertain through the police force, the residences and employments of all persons between the ages of 4 and 18 years residing within such cities and shall report thereon from time to time to the school authorities of such cities. Under the regulations of such board during the month of October, 1900, it shall be the duty of the police commissioners in the cities of the first class to cause a census of the children of their respective cities to be taken. Thereafter such census shall be amended from day to day by the police, precinct by precinct, as changes of residence occur among the children of such cities within the ages prescribed in this act and as other persons come within the ages prescribed herein and as other persons within such ages shall become residents of such cities, so that said board shall always have on file a complete census of the names and residences of the children between such ages and of the persons in parental relation thereto. If in the taking of the first census in any city of the first class during the month of October, 1900, additional policemen shall be required, such additional policemen shall be appointed by the police commissioner of said city from the civil service lists of persons eligible for appointment as such policemen, and said additional policemen shall be allowed in addition to the number now allowed by law. It shall be the duty of persons in parental relation to any child residing within the limits of said cities of the first class to report at the police station house of the precinct within which they severally reside, the following information:

"1 Two weeks before any child becomes of the compulsory school age, the name of such child, its residence, the name of the person or persons in parental relation thereto, and the name and location of the school to which such child is sent as a pupil.

"2 In case a child of compulsory school age is for any cause removed from one school and sent to another school, or sent to work in accordance with the child-labor law, all the facts in relation thereto.

"3 In case the residence of a child is removed from one police precinct to another police precinct, the new residence and the other facts required in the two preceding paragraphs.

"4 In case a child between the ages of 4 and 18 becomes a resident of one of said cities of the first class for the first time the residence and such other facts as the census board shall require. Such census shall include all persons between the ages of 4 and 18 years, the day of the month and the year of the birth of each of such persons, their respective residences by street and number, the names of their parents or guardians, such information relating to illiteracy and to the enforcement of the child labor and the compulsory education law as the school authorities of the State and of such cities shall require and also such further information as such authorities shall require.

"Sec. 2 A permanent census board may be established in any city not of the first class, in accordance with the provisions of this act. If a census board shall not be established in such cities, then, during the month of October, 1900, and in the month of October every fourth year thereafter, the school authorities of every city, not a city of the first class, shall take a census of the children of their respective cities. Such census shall include the information required from the cities of the first class as provided in section 1 of this act.

"Sec. 3 The board of trustees of every school district shall annually on the 30th day of August cause a census of all children between the ages of 5 and 18 years to be taken in their respective school districts. Such census shall include the information required from cities as provided in this act.

"Sec. 4 A parent, guardian or other person having under his control or charge a child between the ages of 4 and 18 years who withholds or refuses to give information in his possession relating to such child and required under this act, or any such parent, guardian or other person who gives false information in relation thereto, shall be liable to and punished by fine not exceeding \$20 or by imprisonment not exceeding 30 days.

"Sec. 5 The money required for the purpose of carrying this act into effect shall be paid by the cities and school districts respectively, included in the provisions of this act, but, in cities in which a permanent census board as provided under section 1 of this act is not established and maintained, and in school districts, such moneys shall be paid for the services rendered in the taking of the school census on the certificate of the State Commissioner of Education that such census has been satisfactorily taken.

"Sec. 6 It shall be the duty of the State Commissioner of Education to enforce the provisions of this act.

"Sec. 7 Chapter 550 of the laws of 1895 is hereby repealed.

"Sec. 8 This act shall take effect immediately."

Chap. 249, May 11, 1908.

960. **North Carolina:** See enactment No. 1556.

961. **North Dakota:** Amending sec. 835, Revised Codes, 1905, relative to school census and annual school report.

School census to be taken between the 1st and 20th of June (formerly, at the close of the school year). Empowering county superintendent to withhold apportionment of state and county funds to districts where the number of persons of school age attending school for a period of sixty days during the school year is less than 50 per cent of the total enumeration.

Chap. 97, Mar. 12, 1907.

962. **Ohio:** Repealing, and reenacting with amendments, sec. 4030, Revised Statutes (1905), relative to yearly enumeration of school youth.

Providing for the enumeration of feeble-minded, physically disabled, blind, deaf, and mute children.

H. B. 888, p. 80, Apr. 9, 1908.

963. **Texas:** Amending chap. 124, Laws, 1905, relative to a complete system of public schools, by adding sec. 91a, relative to census enumeration and transfers of children under certain conditions to other districts.

Chap. 130, Apr. 18, 1907.

964. **Virginia:** Adding sec. 1463a, to Code, 1904, authorizing a new school census to be taken whenever the boundaries of a district are changed.

Chap. 161, Mar. 11, 1908.

965. **Washington:** Amending sec. 49, chap. 118, Laws, 1897 (Code of Public Instruction), relative to duties of district clerks.

School census to be taken in June instead of May. Date of birth to be included. Reports upon children failing to attend school as prescribed by law to be made to county superintendent (formerly, superior judge).

Sec. 3, chap. 163, Mar. 13, 1907.

966. **Wisconsin:** See enactment No. 57.

#### (c) School Year; Month; Day.

Several of the following enactments are of interest in exhibiting the continuance of the effort to equalize educational opportunity and to secure the fullest educational privileges to the children of all communities. Arizona (968), Missouri (970), North Dakota (971), Ohio (972), Oregon (973), and Wisconsin (1085), all took steps to lengthen the legal school year.

967. **Arizona:** See enactment No. 454.

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968. **Arizona:** Amending par. 2192 (sec. 63, chap. 6, tit. 19), Revised Statutes, 1901, relative to equality of school privileges.

Fixing minimum length of school term at six months: when funds are sufficient, eight months.

Sec. 10, chap. 67, Mar. 21, 1907. (July 1, 1907.)

969. **California:** Amending sec. 1697, Political Code, 1906, defining the length of the school month.

Legal holidays to be included within.

Chap. 18, Feb. 19, 1907.

970\*. **Missouri:** Amending sec. 9751, art. 1, chap. 154, Revised Statutes, 1899, relative to length of school term.

Increasing required length of school term from six months to eight months.

H. B. No. 89, p. 433, Feb. 18, 1907.

971. **North Dakota.** See enactment No. 475.

972. **Ohio:** Amending sec. 3969, Revised Statutes, 1905, relative to the action of the county commissioners when a board of education fails to provide proper school facilities.

Extending minimum school year from seven months to thirty-two weeks.

H. B. 1003, Mar. 31, 1908.

973. **Oregon.** See enactment No. 479.

974. **Wisconsin:** Amending sec. 459, Statutes, 1898, as amended by chap. 326, Laws, 1903, relative to what shall constitute a school month.

Excluding day of primary election and of any general election, also legal holidays, and providing that a teacher's time of attendance at the meeting of a teachers' association may be included.

Chap. 92, May 10, 1907.

**(d) School Holidays.**

975. **Colorado:** Designating the 12th day of October of each year as a public holiday, to be known as "Columbus Day."

Chap. 190, Apr. 1, 1907.

976. **Indiana:** Amending sec. 1, chap. 118, Laws, 1905, relative to legal holidays. Adding the 12th day of February, commonly called "Lincoln's Birthday," to the list of legal holidays.

Chap. 220, Mar. 9, 1907.

977. **Maine:** Amending chap. 202, Public Laws, 1901 (sec. 88, chap. 15, Revised Statutes, 1903), relative to school holidays.

Removing fast days from list of school holidays and adding Patriot's Day, April 19th, thereto; holidays falling on Sunday to be observed on Monday following.

Sec. 1, chap. 48, Mar. 11, 1907.

977a. **Maryland:** Amending sec. 9, art. 13, Public General Laws, 1904, relative to legal holidays.

Making September 12th, "Defenders' Day," a legal holiday.

Chap. 181, p. 7, Apr. 1, 1908.

978. **Minnesota:** Amending par. 6, sec. 6514, Revised Laws, 1905, relative to holidays.

Making Good Friday a legal holiday.

Chap. 254, Apr. 10, 1907.



979. **New Hampshire:** Amending chap. 11, Laws, 1899 (secs. 1 and 2, tit. 27, chap. 202, Public Statutes, 1901), concerning holidays.

The day on which biennial elections are held not a school holiday.

Chap. 7, Feb. 20, 1907.

980. **New Jersey:** Creating a public holiday to be known as "Good Friday."

Chap. 244, June 12, 1907.

981. **Oklahoma:** Creating an annual holiday to be known as "Labor Day."

Chap. 53, S. B. 437, p. 518, May 23, 1908.

982. **South Dakota:** Amending secs. 2458 and 2459, Revised Civil Code, 1903, relative to legal holidays.

Adding February 12, Lincoln's Birthday, and the first Monday in September, Labor Day, to list of legal holidays; Monday to be observed whenever February 12th, or 22d, or July 4th falls on a Sunday.

Chap. 181, Feb. 12, 1907.

983. **Washington:** Amending sec. 56, Code of Public Instruction, Laws, 1897, relative to holidays in the public schools.

Enumerating the several school holidays upon which teachers may not be required to teach.

Chap. 59, Mar. 4, 1907.

#### (c) Place of Attendance; Transportation of Pupils; Consolidation of Schools.

Supplementary to the legislation for the furthering of the consolidation of school districts (Section A, enactments 314-361) is that providing for the transportation of pupils to and from school. Indiana (988) passed a most noteworthy act in this connection. Other measures of seeming great importance may be enumerated: Kansas (992), Maine (993), Missouri (1002), New Jersey (1008), Ohio (1010, 1012), Vermont (1015), Washington (1018), and Wisconsin (1019, 1020). The majority of these acts are of self-evident importance to the educational interests of either isolated or unprovided communities of the several States concerned.

The revised act of Massachusetts (995) relative to the transportation at half rate, by street and elevated railway companies, of pupils of public and private schools, in connection with the decision of the Massachusetts supreme court (D 993) and the decision of the United States Supreme Court (D 998), is of more than passing interest and significance.

984. **Arizona:** Amending par. 2211 (sec. 82, chap. 9, tit. 19), Revised Statutes, 1901, relative to the admission of children to public schools.

Providing for the admission of children of nonresidents upon payment of reasonable tuition fee.

Sec. 1, chap. 67, Mar. 21, 1907. (July 1, 1907.)

985. **Connecticut:** Concerning the transportation of high school pupils.

Authorizing the transportation to and from the high school of any pupil residing within the limits of the town, and the payment therefor, whole or in part.

Chap. 30, Apr. 17, 1907.

986. **Idaho:** Amending sec. 66, page 102, Laws, 1899 (sec. 1103, Political Code, 1901), relative to nonresident pupils.

Permitting trustees to determine whether pupils outside their counties (formerly districts) may attend school within their districts.

Sec. 2, H. B. No. 31, p. 17, Feb. 15, 1907.

987. **Indiana:** Amending sec. 2, chap. 204, Acts, 1901, concerning transfers of school children.

Requiring officials of school corporations to which transfer is made to file with the county auditor and with the debtor corporation a statement of number of children transferred and cost of tuition. Previous method of direct payment by school corporations replaced through equalization of tuition fund by county auditor.

Chap. 189, Mar. 9, 1907.

988. **Indiana:** Concerning the discontinuance of public schools and providing for the transportation of pupils.

"SECTION 1. *Be it enacted* . . . That the township trustees shall discontinue and abandon all schools under their charge at which the average daily attendance during the last preceding school year has been twelve (12) pupils or fewer; and said trustees may discontinue and abandon all schools at which the average daily attendance during the last preceding school year has been fifteen (15) pupils or fewer: Provided, The conditions as to roads, streams and bridges permit of such discontinuance.

"SEC. 2. It shall be the duty of the township trustees to provide for the education of such pupils as are affected by such or any former discontinuance in other schools, and they shall provide and maintain means of transportation for all such pupils as live at a greater distance than two miles, and for all pupils between the ages of six (6) and twelve (12) that live less than two miles and more than one mile from the schools to which they may be transferred as a result of such discontinuance. Such transportation shall be in comfortable and safe conveyances. The drivers of such conveyances shall furnish the teams therefor, and shall use every care for the safety of the children under their charge, and shall maintain discipline in such conveyances. Restrictions as to the use of public highways shall not apply to such conveyances. The expenses necessitated by the carrying into effect the provisions of this act shall be paid from the special school fund."

Chap. 233, Mar. 11, 1907.

D 989. **Indiana (1907):** Acts, 1873, p. 68, chap. 24 (Burns' Ann. Stat., 1901, sec. 5953), provides that the trustees of the several townships, towns, and cities shall have the power to levy a special tax in their respective townships, towns, and cities for the construction, renting, or repairing of schoolhouses, for providing furniture, school apparatus, and fuel therefor, and for the payment of other necessary expenses of the school, etc. *Held*, that the clause "for the payment of other necessary expenses of the school" did not authorize the levying of a tax to provide free transportation for the pupils of a consolidated school district to and from the school.—*State v. Jackson*, 81 N. E., 62.

D 990. **Iowa (1907):** Code, sec. 2774, authorizes a school board to arrange for the transportation of children to school in certain cases, "when there will be a saving of expense, and children will thereby secure increased advantages." *Held*, that though, if a board which refused to provide transportation for petitioner's child found that a saving of expense would be effected and increased advantages secured by the transportation, it might have been its duty to provide it, where a petition to compel the board to furnish transportation fails to show that the board made such finding or that such saving and advantage would be effected, petitioner fails to show himself entitled to the benefit of the statute.—*Queeney v. Higgins*, 114 N. W., 51.

991. **Kansas:** Repealing, and reenacting with amendments, sec. 2, chap. 386, laws, 1905, concerning the attendance of children upon schools of other districts.

Decreasing monthly per capita payment for tuition from \$10 to \$4 and striking out limitation imposed concerning total monthly expenditure of \$45.

Chap. 321, Mar. 7, 1907.

992. **Kansas:** Repealing, and reenacting with amendments, sec. 6149, General Statutes, 1901 (sec. 12, chap. 307, Laws, 1901), relative to the conveyance of pupils to and from school.

Granting district school boards authority to allow compensation to parents for conveyance of children living not less than 2 miles and not more than 3 miles from the schoolhouse.

Chap. 327, Mar. 8, 1907.

993. **Maine:** Amending sec. 3, chap. 216, Acts, 1893, as amended by chap. 203, Acts, 1901 (sec. 2, chap. 15, Revised Statutes, 1903), relative to school districts and the conveyance of pupils.

Designating common-school pupils in place of public-school pupils for conveyance.

Chap. 90, Public Laws, Mar. 20, 1907.

994. **Massachusetts:** Providing that the town of Dighton shall not be required to maintain a high school.

Providing that the town shall pay the tuition of every child attending the high school of another town or city, and also the railway transportation to and from such high school.

Chap. 149, Feb. 27, 1907.

995. **Massachusetts:** Repealing sec. 99, pt. III, chap. 463, and chap. 479, Acts of 1906, relative to the transportation, by street and elevated railway companies, of pupils of the public day and public evening schools and private schools, and enacting a substitute.

Chap. 530, May 19, 1908.

- D 996. **Massachusetts (1905):** Rev. Laws, chap. 112, sec. 72, requiring street railway companies to carry pupils of the public schools when going to and returning from school at rates not exceeding one-half of the regular fare and leaving unchanged the previous laws exempting the Boston Elevated Company from the operation of chap. 112, is not objectionable as class legislation, the promotion of education being a sufficient reason for the discrimination in favor of pupils.—*Commonwealth v. Interstate Consol. St. Ry. Co.*, 73 N. E., 530; 187 Mass., 436.

Citing *Gulf, etc., Ry. Co. v. Ellis*, 165 U. S., 150, 156; 17 S. Ct., 255; 41 L. Ed., 666; *Lake Shore, etc., Ry. Co. v. Smith*, 173 U. S., 684; 19 S. Ct., 565; 43 L. Ed., 858; *Wisconsin, etc., Ry. Co. v. Jacobson*, 179 U. S., 287, 301; 21 S. Ct., 115; 45 L. Ed., 194. *Opinion of Justices*, 166 Mass., 589; 44 N. E., 625; 34 L. R. A., 587; *Pacific Express Co. v. Selvert*, 142 U. S., 339; 12 S. Ct., 250; 35 L. Ed., 1035; *American Sugar Refining Co. v. Louisiana*, 179 U. S., 89, 92; 21 S. Ct., 43; 45 L. Ed., 102.

- D 997. **Massachusetts (1905):** Rev. Laws, chap. 112, sec. 72, requiring street railway companies to carry pupils of the public schools when going to and returning from school at rates not exceeding one-half of the regular fare, is not a taking of property without due process of law, as there was reason for the legislature to believe that the enforcement of the statute would not result in a loss to the street railway company.—*Commonwealth v. Interstate Consol. St. Ry. Co.*, 73 N. E., 530; 187 Mass., 436.

D 998. **Massachusetts** (1907): *a United States Supreme Court*. A street railway company whose charter subjects it to "all the duties, liabilities, and restrictions set forth in all general laws now, or hereafter in force relating to street railway companies," is bound by the requirement of a statute previously enacted, that street railway companies shall transport school children at a reduced rate, although such statute may be unconstitutional as to already existing corporations.—Judgment, *Commonwealth v. Interstate Consol. St. Ry. Co.* (1905), 73 N. E. 530; 187 Mass., 436, affirmed. *Interstate Consol. St. Ry. Co. v. Commonwealth*, 28 S. Ct., 26; 207 U. S., 79; Adv. S. U. S., 26; 52 L. Ed.

D 999. **Massachusetts** (1906): A vote of a town to reopen a school which had been closed by the school committee *held* to require a reassignment to such school of pupils who had previously attended the same.—*Morse v. Ashley*, 79 N. E. 481.

Under Rev. Laws, chap. 42, sec. 27, a school committee of a town *held* authorized to close a school and transfer the pupils, regardless of a vote of the town to the contrary.—*Ibid.*

1000. **Minnesota**: Amending sec. 1321, Revised Laws, 1905, relative to the powers and duties of school boards as to nonresident pupils.

Providing for cases wherein a person holds property and pays taxes in a district other than the one in which he resides.

Sec. 1, chap. 445, Apr. 25, 1907.

1001. **Missouri**: Amending sec. 9764, chap. 154, art. 1, Revised Statutes, 1899, relative to rules and regulations and admission of nonresident pupils.

Making special provision that a child with only one parent living shall have the privilege of attending school in any district in the State without the payment of a tuition fee.

H. B. No. 550, p. 425, Mar. 20, 1907.

1002\*. **Missouri**: Amending sec. 9741, chap. 154, Revised Statutes, 1899, relative to school districts.

Providing that districts having fewer than 25 children may arrange for admission of school children to schools of other districts. Authorizing payment for tuition and transportation.

H. B. No. 615, Mar. 19, 1907.

1003. **Nebraska**: Repealing and reenacting with amendments, sec. 3477, chap. 79, Compiled Statutes, 1905 (sec. 11297, Cobby's Annotated Statutes, 1903), relative to attendance of children in school districts other than the one of residence.

Providing that parents or guardians of transferred pupils shall have the right to vote in the district to which such pupils are transferred on all school matters except that of issuing bonds.

Chap. 120, Apr. 6, 1907.

1004. **New Hampshire**: Relating to the transportation of school children on street railroads.

Authorizing special rates for children travelling to and from school.

Chap. 131, Apr. 5, 1907.

D 1005. **New Hampshire** (1906): Laws, 1903, p. 13, chap. 13, requiring every person residing in a school district in which a public school is annually taught and having the custody of a child between the ages of 8 and 14 years, to cause the child to attend public school all the time the school is in session, when construed in the light of Laws, 1871, p. 511, chap. 2, sec. 1, making only persons residing within 2 miles of a school amenable to the requirement, Laws, 1878, p. 183, chap. 55, and Laws, 1885, p. 253, chap. 43, sec. 6, reenacted in Pub. Stat., 1901, chap. 92, sec. 1, authorizing the expenditure of a certain portion of the school money for the purpose of conveying scholars residing not less than 1½ miles from school, and

\* See p. 342 for complete text of decision.

Pub. Stat., 1901, chap. 93, sec. 14, omitting the 2-mile limitation contained in the law of 1871, required the person having the custody and control of the child to send it to school whenever conveyance was provided, but did not require a person, living at a distance from the school unreasonable for the child to walk, to convey the child to school either at his own expense or for a sum thought reasonable by the school board.—State v. Hall, 64 A., 1102; 74 N. H., 61.

1006. New Jersey: See enactment No. 30.

1007. New Jersey: See enactment No. 1054.

1008. New Jersey: Amending sec. 182, chap. 1, Laws, 1903 (sp. sess. Oct. 15), as amended by chap. 241, Acts, 1906, relative to apportionment of state school fund by county superintendents.

Providing, in addition to existing apportionment, for the payment of 75 per centum of cost of transportation of pupils to school in district other than that in which they reside, provided their own school be not closed thereby.

Chap. 122, May 7, 1907.

D. 1009. New Jersey (1907): Failure of a board of education to provide for the transportation of children living remote from the schoolhouse, under P. L. 1902, p. 108, sec. 111, is not a failure to provide suitable school facilities and accommodations within sec. 120 of the same act. Judgment (Sup., 1906) 62 A., 1130, affirmed.—Board of Education of Frelinghuysen Tp. v. Atwood, 65 A., 999.

School law (P. L., 1902, p. 111, sec. 120), providing a penalty against a board of education failing to provide suitable school facilities and accommodations, being highly penal in its consequences, must be construed with reasonable strictness. Judgment.—*Ibid.*

1010. Ohio: Providing for transportation of pupils in village school districts with attached territory.

Authorizing transportation to be paid for from school funds of village district. Transportation of pupils living within 1 mile of schoolhouse optional with board of education.

H. B. 716, p. 234, Apr. 29, 1908.

1011. Ohio: Repealing, and reenacting with amendments, sec. 3922, Revised Statutes (1905), relative to the suspension of schools in subdistricts, and the conveyance of pupils to other districts.

Subdistrict schools having an average daily attendance of 12 not to be suspended under certain conditions. Providing for sixty days' notice for centralization of township schools.

H. B. 723, p. 203, Apr. 24, 1908.

1012. Ohio: Repealing, and reenacting with amendments, sec. 3934, Revised Statutes (1905), relative to transportation of pupils in special school districts.

Authorizing transportation to school of adjoining district. Changing residence limit for transportation from one-half to 1 mile.

H. B. 797, p. 265, May 1, 1908.

D. 1013. Ohio (1907): Rev. Stat., sec. 4022a, authorizing children living more than 1½ miles from their assigned school to attend a nearer school in the same district, or in another district, does not require the board of education of a school district to admit children to a school outside of a district in which they reside, unless the school in their own district is more than 1½ miles from their residence and more remote than the school to which admission is sought.—Boyce v. Board of Education of Mount Carmel Special School Dist., 81 N. E., 437; 76 Ohio St., 365.



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1014. **Pennsylvania:** Relative to attendance of pupils at more convenient schools outside district of residence.

Permitting children residing  $1\frac{1}{2}$  miles or more by public road from the nearest school in the district of residence to attend any more convenient school in any other district without the consent of the directors or controllers of the district where they reside or where they may attend, for the cost of tuition.

Act No. 121, May 2, 1907.

1015. **Vermont:** *See enactment No. 586.*

1016. **Vermont:** Determining the qualifications of pupils attending schools in other towns.

Requiring pupils, demanding payment of tuition in schools of another town under provisions of act No. 37, Acts, 1904, to pass an entrance examination.

Act No. 51, Dec. 18, 1906. (Apr. 1, 1907.)

1017. **Virginia:** Amending and reenacting secs. 1492 and 1493, relative to persons who shall be admitted to the public schools.

Modifying conditions relative to admission of children of nonresident taxpayers.

Chap. 400, Mar. 16, 1906.

1018. **Washington:** Amending sec. 40, chap. 118, Laws, 1897 (Code of Public Instruction), relative to powers and duties of boards of directors.

Providing for teachers' contracts; for transportation of pupils to and from school.

Sec. 5, chap. 240, Mar. 18, 1907.

1019. **Wisconsin:** Creating secs. 430-1 to 430-8, inclusive, Statutes, 1898, relative to state aid to school districts furnishing transportation for pupils.

Empowering electors of school district to authorize school board or town board of school directors to enter into agreements to compensate parents or guardians for transportation of pupils. Providing for rate of compensation, and in certain cases reimbursement of school districts by the State of half the expenditure.

Chap. 490, July 9, 1907.

1020. **Wisconsin:** Creating secs. 496q, 496r, 496s, and 496t, Statutes, 1898, relative to state aid to rural schools.

"SECTION 496q. Whenever the electors of any rural school district or subdistrict shall direct the board to close the district or subdistrict school and provide transportation and tuition for all persons of school age who may attend any state graded school or the grades below the high school in the free high school district, each such rural district or subdistrict shall receive aid in the sum of seventy-five dollars annually upon complying with the following conditions:

"(1) Transportation shall be provided for at least thirty-two weeks, including legal holidays.

"(2) The average daily attendance of the pupils transported from any district or subdistrict to any state graded school or free high school district, under the provisions of this act shall be eighty per cent of the entire number enrolled for transportation during each term of school.

"(3) Each driver contracted with shall be of excellent moral character, trustworthy and responsible, and shall furnish a safe team with suitable and comfortable conveyance, well supplied with protections against stormy and inclement weather.

"(4) The clerks of each district or subdistrict taking advantage of this act shall make a special report to the state superintendent of public instruction showing that the above conditions have been complied with.

"SEC. 496r. The school district board shall embody in the notices of every annual or special meeting at which any or all of the above matters are to be considered, a statement to that effect, that the question of trans-

portation of children will be voted upon, said notices to be posted as provided for in sections 426 and 427 of the statutes.

"Sec. 496s. The sum of five thousand dollars is hereby appropriated annually from the general fund of the state treasury to enable the state superintendent to meet the provisions of this act; the above sum, or so much of it as may be necessary, to be apportioned in a special apportionment on or before the first of November of each year.

"Sec. 496t. Each district taking advantage of this act, shall receive the same apportionment of the state and other taxes as provided by law, as would have been received had school been maintained in the district."

Chap. 553, July 10, 1907.

#### (f) Compulsory Attendance; Child Labor; Truancy.

No portion of the entire mass of legislation affecting public education points more definitely to progress than the body of enactments relating to compulsory attendance and child labor. The mere number of these enactments is full of meaning and clearly indicative of the determination of the States to protect themselves by safeguarding the educational and social rights of children. A review and comparison of the principal features of the enactments bring to light unmistakable tendencies to widen the age limitations, to increase the length of the annual school attendance, to require certain degrees of educational advancement as an essential condition of exemption from attendance, to give to school officials far greater authority in the determination of what constitutes satisfactory compliance with the law, and to bring defective children (deaf, dumb, blind, and feeble-minded) within the scope of operation of the compulsory attendance requirements.

Along with the laws regulating compulsory attendance is also presented in generally briefer form those regulating child labor. These latter have come to be regarded as a necessary complement of the former. Not only has there been during the past biennium a very noticeable activity throughout the country in providing for more effective laws than those now existing, both as regards the labor and the education of children, especially in cities, but certain new enactments are representative of a wider recognition of the positive social values inherent in these protective measures for children. The child-labor laws of Arkansas (1022), of Florida (1027), of Georgia (1029), of Kentucky (1034), (1035), of Louisiana (1036), of Mississippi (1047), of Missouri (1048), of Montana (1050), of Nebraska (1051), and of Virginia (1078) are representative of the effort of the Southern States to protect their children from the deteriorating influences of early labor. These measures, in spite of evident weaknesses, are hopeful forerunners of more comprehensive ones.

Of the compulsory education laws, those of Delaware (1026), Illinois (1031), Michigan (1041), Missouri (1049), New Jersey (1054), New York (1056-1058), North Carolina (1060), North Dakota (1064), Oklahoma (1068), Virginia (1079), Washington (1082),

and Wisconsin (1085) may be selected as illustrating the several phases of the modern movement of guaranteeing that every child shall have at least a minimum of education.

1021. **Arizona:** Amending par. 2231 (sec. 101, chap. 11, tit. 19), Revised Statutes, 1901, relative to the school attendance of children.

Prohibiting the employment of children under 14 years of age and providing penalty for violation.

Lengthening period of compulsory school attendance from "at least twelve weeks in each year, six weeks of which time shall be consecutive," to "six school months, of which twenty school weeks shall be consecutive." Attendance to begin within two weeks after opening of school. Providing for compulsory attendance of children between 14 and 16 incapable to read and write English language. Further limiting exceptions.

Sec. 2, chap. 67. Mar. 21, 1907. (July 1, 1907.)

1022. **Arkansas:** Regulating the employment of children in factories and manufacturing establishments. (Amending secs. 1947 and 1952, Kirby's Digest, 1904.)

Prohibiting employment of children under 12 years of age; exempting canneries during school vacation period.

Prohibiting on and after Sept. 1, 1907, employment of children under 14 years of age; excepting orphans, and children of widowed mothers, and aged and disabled fathers; requiring certificates of dependency.

Prohibiting, also, on and after Sept. 1, 1907, employment of any child under 14 years of age, "unless he or she can write his or her name, and simple sentences and shall have attended school for twelve weeks of the preceding year, six of which school attendance shall be consecutive; and no such child as aforesaid between the ages of 14 and 18 years shall be so employed unless such child shall have attended school for twelve weeks of the preceding year, six weeks of which school attendance shall be consecutive; and at the end of each year, until such child shall have passed the public school age, an affidavit certifying to such attendance, as is required by this section, shall be furnished to the employer by the parent or guardian or person sustaining parental relations to such child.

"The provisions of this section shall apply only to children entering such employment at the age of 14 or less."

Providing penalties for violations of regulations.

Act No. 456, May 20, 1907.

1023. **California:** Amending secs. 3, 4, 5, and 6, chap. 270, Laws, 1903, relating to the enforcement of the educational rights of children and providing penalties for violation; adding sec. 74 thereto.

Extending provisions to include school districts having at least 600 census children, and providing for truants in districts and counties having no parental school.

Authorizing school district trustees to raise money for establishment of parental school.

Chap. 77, Mar. 4, 1907.

1024. **California:** Amending sec. 5, chap. 18, Statutes, 1905, regulating the employment and hours of labor of children.

Defining the term "horticulture" so as to include the curing and drying, but not canning, of fruit.

Sec. 5 places horticultural labor during time schools are not in session among the exempt classes.

Chap. 322, Mar. 19, 1907.

1025. **California:** Amending sec. 2, chap. 18, Statutes, 1905, regulating the employment of children.

Providing that attendance officers shall have right to enter places of employment for the purpose of investigating violations of child labor or compulsory education act.

Chap. 524, Mar. 23, 1907.

1026. **Delaware:** Relating to the compulsory attendance of children at the public schools of the State.

Providing that children between 7 and 14 years of age must attend public or private day school at least five months annually, unless excused by school officers. School district to have power to reduce time to not less than three months.

Method of prosecution for violations, and penalties.

Authorizing establishment of truant schools or commitment to Ferris Reform School.

Authorizing employment of attendance officers, and providing for duties and compensation.

Compelling assessors to take school census and report same to county superintendent, latter to forward to school-teacher a list of children in district. Teacher to report every month absent children to county superintendent and truant officer.

Providing that the state treasurer shall withhold one-fourth the state dividend from any school neglecting to enforce this act.

Chap. 121, Mar. 15, 1907.

1027. **Florida:** Prohibiting the employment of minors under a certain age in certain places and occupations.

Prohibiting employment of children under 12 years of age in factories and in certain occupations. Providing that children under 12 may be employed under certain conditions when public schools are not in session; providing for certificates authorizing such employment; limiting hours of labor; providing for records, and prescribing penalties.

Excepting household or agricultural work.

Chap. 5686 (act No. 91), May 29, 1907. (June 28, 1907.)

1028. **Georgia:** Amending act No. 339, p. 456, Local and Private Laws, 1872, regulating public instruction in the county of Richmond.

Establishing under certain conditions a system of compulsory education for children between the ages of 7 and 12. Excepting those exempted by provisions of child-labor act (act No. 399, p. 98, Aug. 1, 1906). Authorizing county board of education to compel attendance of such children "for the majority of the school days in each school month of seven months of the school year as established by said board."

Providing for attendance of indigent children, for attendance upon approved private schools, for the appointment of truant officers. Designating violation of the act by parent or guardian as misdemeanor. Providing for submission of act to qualified voters of Richmond County for approval, Oct., 1908.

Act No. 74, p. 827, Aug. 16, 1907.

1029. **Georgia:** Regulating the employment of children in factories and manufacturing establishments, and providing for the punishment of violations of the regulations prescribed.

No child under 10 years of age to be employed in any factory or manufacturing establishment under any circumstances. No child under 12 to be employed excepting orphans and children of widows or disabled fathers. (Jan. 1, 1907.)

No child under 14 years of age to be employed "unless he or she can write his or her name and simple sentences, and shall have attended school for twelve weeks of the preceding year, six weeks of which school attendance shall be consecutive; and no such child aforesaid between the ages of 14 and 16 years shall be so employed unless such child shall have attended school for twelve weeks of the preceding year, six weeks of which school attendance shall be consecutive; and at the end of each year until such child shall have passed the public school age, an affidavit certifying to such attendance as is required by this section, shall be furnished to the employer by the parent or guardian or person sustaining parental relation to such child. The provisions of this section shall apply only to children entering such employment at the age of 14 or less." (Jan. 1, 1908.)

Act No. 399, p. 86, Aug. 1, 1906.

- 1030\* **Idaho:** Prescribing and regulating the employment of minors in certain occupations.

Children under 14 years of age not to be employed during hours in which public schools are in session; children above 12 may be employed during regular vacation of two weeks or more of the public schools. Illiterate minors under 16 not to be employed during hours in which public schools are in session.

"Sec. 2. No minor who is under 16 years of age shall be employed or permitted to work at any gainful occupation during the hours that the public schools of the school district in which he resides are in session, unless he can read at sight and write legibly simple sentences in the English language, and has received instruction in spelling, English grammar, and geography and is familiar with the fundamental operations of arithmetic up to and including fractions, or has similar attainments in another language."

Providing for records of minors employed; limiting time and hours of employment; providing penalties for violation.

H. R. No. 134, p. 248, Mar. 12, 1907.

- 1031\* **Illinois:** Amending secs. 1, 4, and 5, p. 296, Acts, 1897, as amended, p. 308, Acts, 1903 (secs. 312, 314, and 316, Hurd's Revised Statutes, 1905), relative to promotion of attendance of children in schools and prevention of truancy.

Lengthening period of required attendance, in place of 7 to 14, to 7 to 16, excepting children between 14 and 16 necessarily and lawfully employed during school hours. Defining penalty for false statements concerning children employed.

S. B. 237, p. 520, May 25, 1907.

- 1032 **Iowa:** Amending sec. 2823f, Code, 1897, relative to the enforcement of the compulsory education law.

Granting county superintendents authority to serve notice upon school officers neglecting to enforce provisions of act.

Chap. 154, Apr. 13, 1907.

- 1033 **Kansas:** Amending sec. 2, chap. 423, Laws, 1903, relative to attendance of pupils in schools, to truancy, and to truant officers.

Making special provisions for the appointment of truant officers in cities of the first and second classes. Providing for method of notification of parents or guardians of violation of attendance requirements, and also procedure for prosecution.

Children between 8 and 14 years of age not to be employed during school sessions. Exemptions. Penalties for violations.

Chap. 317, Mar. 5, 1907.

- 1034 **Kentucky:** Repealing chap. 16, Laws, 1902, making it unlawful to employ a child less than 14 years of age in workshops, mines, mills, or factories, and repealing chap. 52, Laws, 1906, as amending the foregoing act, and regulating the employment, use, and protection of child labor in mills, mines, factories, etc., and enacting a substitute.

Children under 14 not to be employed during school term. Children between 14 and 16 may be employed under certain conditions. Providing for employment certificates, and defining the character and conditions of issuance thereof. Prescribing duties of truant officers. Defining certain conditions of employment of children under 16, and prohibiting certain employments in their case. Effective Sept. 1, 1908, and for certain children already employed Sept. 1, 1908.

Chap. 60, Mar. 14, 1908. (Sept. 1, 1908.)

- 1035 **Kentucky:** Repealing chap. 64, Laws, 1904, relative to school attendance of children between the ages of 7 and 14 in cities of the first, second, third, and fourth classes. Enacting a substitute to promote and compel attendance of children in schools and to prevent truancy in cities of the first, second, third, and fourth classes, and to enable boards of education or boards of school trustees of cities of the first and second classes to



establish and maintain parental or truant schools for the care and discipline of truant children and for the purpose of reducing truancy.

Increasing penalty for failure to comply with provisions of act. Providing for proofs and records of age of children; for the qualifications and compensation and powers and duties of truant officers, and for better means of enforcing attendance of children within prescribed age limits.

Chap. 68, Mar. 19, 1908.

1036. **Louisiana:** Regulating the employment of children, young persons, and women of the State; providing for the issuance of age certificates; providing necessary regulations for sanitary conditions and mechanical devices in mills, factories, mines, and packing houses, manufacturing establishments, workshops, laundries, millinery or dressmaking stores, or mercantile establishments in which more than five persons are employed, or in any theater, concert hall, or in or about any place of amusement where intoxicating liquors are made or sold, or in any bowling alley, bootblacking establishment, freight or passenger elevator, or in the transmission or distribution of messages, either telegraph or telephone, or any other messages, or merchandise, or in any other occupation not herein enumerated which may be deemed unhealthful or dangerous, and providing for the appointment of a factory inspector, and fixing penalties for any violation.

Act No. 301, July 9, 1908.

1037. **Massachusetts:** Amending sec. 31, chap. 106, Revised Laws, 1902, as amended by chap. 432, Acts, 1904, and by chap. 213, Acts, 1905, relative to the approval of age and schooling certificates of minors.

Adding provision that the certificate of the superintendent of the Lyman School for Boys or of the State Industrial School for Girls shall be sufficient evidence as to the age and ability to read at sight and to write legibly simple sentences in the English language of a child who has been an inmate of such school.

Chap. 224, Mar. 20, 1907.

1038. **Massachusetts (1907):** Attendance on any one of the schools required to be maintained by Rev. Laws, chap. 42, secs. 10, 11, 12, 15, and 16, can not take the place of the compulsory attendance on public schools established under secs. 1 and 2.—Commonwealth v. Connecticut Valley St. Ry. Co., 82 N. E., 19.

1039. **Michigan:** Providing for the compulsory education of deaf children.

Requiring attendance of every deaf child between the ages of 7 and 18 at some day school for the deaf. Providing for the transportation to the Michigan School for the Deaf of children of indigent parents, and, in case of children under 12 years of age, of parent also.

Making application of the provisions of act No. 200, Acts, 1905 (compulsory education), relative to enforcement and penalties.

Act No. 48, Apr. 17, 1907.

1040. **Michigan:** Amending sec. 2, act No. 260, Acts, 1881 (sec. 5554, Compiled Laws, 1897), as amended by act No. 236, Acts, 1905, relative to protection of children.

Including bowling alleys in list of places prohibited to minors under 17.

Act No. 55, Apr. 25, 1907.

- 1041\*. **Michigan:** Amending secs. 1, 2, 3, and 4, act No. 200, Acts, 1905, providing for the compulsory education of children, and for penalties for failure in compliance.

Raising upper limit of compulsory attendance from 15 to 16 (formerly 7 to 15, inclusive). Defining more accurately conditions for exemption; special provision for children 12 to 14 years of age while in attendance at confirmation classes. Defining more accurately manner of enforcement, and prescribing in greater detail duties of enforcing officers. Numerous minor amendments.

Chap. 74, May 2, 1907.

1042. **Michigan** (1906): Pub. Acts, 1905, p. 203, act No. 95, provided for the compulsory education of children between the ages of 8 and 14 years, and in cities between the ages of 7 and 16 years. Pub. Acts, 1901, p. 119, act No. 83, provided for such education between the ages of 8 and 15, and in cities between 7 and 15. Acts, 1905, p. 206, act No. 200, provided for such education of children "between and including" the ages of 7 and 15 years. *Held*, that the latter statute does not apply to children during the 15th year and until they become 16; the intent being to fix the same age limit for all children at such a time in their lives, and for such a term between the extremes of the former acts, as experience had shown to be most satisfactory.—*Jackson v. Mason*, 108 N. W., 697, 13 Detroit Leg. N., 469.

1043. **Michigan**: Amending sec. 4, act No. 144, Acts, 1901, relative to the powers of boards of trustees of township high schools.

Authorizing admission of pupils above the sixth (formerly eighth) grade. Extending compulsory education laws to said schools.

Authorizing special elections or meetings.

Act No. 126, June 5, 1907.

1044. **Michigan**: Amending sec. 2, act No. 113, Acts, 1901, as amended by act No. 171, Acts, 1905, relative to employment of children.

Raising age of employment of children in places of amusement where liquors are sold from 14 to 21 years.

Sec. 1, pp. 223-224, act No. 169, June 18, 1907.

1045\*. **Minnesota**: Repealing secs. 1804, 1805, 1806, 1807, 1808, 1809, 1810, and 1811, Revised Laws, 1905, relative to the employment of children, and enacting a more comprehensive measure.

Prohibiting employment of children under 14 years of age during any part of the term during which the public schools are in session. Providing for employment certificates for children between 14 and 16 years of age, to be issued by superintendent of schools; describing certificate.

Limiting hours of labor for children under 16. Providing penalties for violation, and prohibiting certain occupations to children. Providing for physicians' certificates in certain cases.

Chap. 299, Apr. 22, 1907.

1046. **Minnesota**: Amending chap. 26, Revised Laws, 1905, relative to schools for the deaf and the blind, by adding sec. 1931a, requiring the attendance upon school of deaf children.

Requiring attendance of deaf children between 8 and 20 years of age upon the State School for the Deaf. Providing exceptions, penalties, and partial census.

Chap. 497, Apr. 25, 1907.

1047. **Mississippi**: Regulating the employment of children in mills, factories, and manufacturing establishments, and providing for inspection of working places, and for the punishment of violations.

Children under 12 not to be employed in any mill, factory, or manufacturing establishment. Prescribing maximum number of hours of labor, and other conditions of employment, for children under 16. Inspections to be made by sheriffs and county health officers. Penalties.

Chap. 99, Mar. 21, 1908.

1048\*. **Missouri**: Regulating the employment of children in gainful occupations and providing penalties for violation.

Prohibiting employment of children under 14 years of age, and limiting hours of employment of children under 16 years of age; applying only to cities of 10,000 or more inhabitants. Prescribing duties of employees; providing for age certificates to be issued by state factory inspector; prohibiting certain employments to children under 16 years of age, and placing enforcement of act under control of state factory inspector. Providing penalties.

S. B. No. 8, p. 80, Mar. 20, 1907.

1049. **Missouri:** Enforcing in cities of 500,000 inhabitants or over the constitutional right of every child in the State to an education, and providing for truant and parental schools and attendance officers, and prohibiting the employment of children during school hours. Repealing, so far as applicable to such cities, act of Apr. 11, 1905 (p. 146).

Compulsory attendance for all children between 8 and 14 years, and for children between the ages of 14 and 16 years not actively and regularly employed, for a period of at least six hours each day. Providing for exemptions, for attendance officers, and for the establishment of parental and truant schools. Prohibiting employment of children between the ages of 8 and 16, unless provided with prescribed certificates.

(Applies to the city of St. Louis.)

S. B. No. 364, p. 428, Mar. 19, 1907.

1050. **Montana:** Prohibiting the employment of children in certain occupations under the age of 16 years; providing for the registration of the age of all children, and for the issuance of an age certificate and the disposition of the same; forbidding the employment of children in certain occupations without such certificate; providing for the enforcement of the act, and providing penalties for violations.

Employment under 16 years of age prohibited. Age certificates to be issued by commissioner of the bureau of agriculture, labor, and industry.

Chap. 99, Mar. 5, 1907.

1051. **Nebraska:** Regulating the employment and use of child labor, and providing for enforcement of provisions and penalties for violations.

Prohibiting employment of children under 14 years of age in specified occupations during hours when public schools are in session. Requiring employment certificates to be issued by superintendent of schools for children between 14 and 16 years employed. Prescribing conditions of certificate. Limiting hours of labor and prohibiting certain occupations to children between 14 and 16 years of age. Providing penalties and procedure in violations.

Chap. 66, Mar. 30, 1907.

1052. **Nebraska:** Repealing, and reenacting with amendments, sec. 1, subdv. 16, chap. 79, Compiled Statutes, 1905 (sec. 11233, Cobbley's Annotated Statutes, Supplement, 1905), relative to compulsory attendance.

Providing that in city and metropolitan city school districts children between 7 and 16 years of age shall attend a public day school for the full period each school year in which the public day schools are in session. Defining more accurately conditions of attendance upon evening schools.

Chap. 131, Apr. 5, 1907.

1053. **New Jersey:** Supplementing chap. —, Laws, 1896 (Revisal of 1896), relative to the punishment of crimes.

Prohibiting unaccompanied minors under 16 years of age from attending dance halls, theaters, shows. Excepting school and pier entertainments. Prohibiting sale of liquor to minors under 18 years; also prohibiting such minors from frequenting billiard halls.

Chap. 185, Apr. 13, 1908.

1054. **New Jersey:** Amending sec. 153, chap. 1, Laws, 1903 (sp. sess.), relative to school attendance.

Raising upper limit of compulsory attendance from 14 to 17. Prescribing subjects to be taught. Exempting children above 15 completing the grammar school, when regularly and lawfully employed; those not employed to attend high or manual training school. Transportation of such children residing in districts not provided with such schools.

Chap. 231, Apr. 13, 1908.

1055. **New York:** Amending sec. 3, tit. 16, chap. 556, Laws, 1894 (Consolidated School Law), as added to by chap. 671, Laws, 1894, as amended by chap. 606, Laws, 1896, and by chap. 459, Laws, 1903; amending sec. 5, tit. 16, chap. 556, Laws, 1894, as amended by chap. 459, Laws, 1903, and chap. 280, Laws, 1905, relative to compulsory education.

Inserting definite provision concerning school record certificates.

Chap. 103, Apr. 3, 1907.

1056. **New York:** Amending sec. 71, chap. 415, Laws, 1897, as amended by chap. 184, Laws, 1903, and chap. 518, Laws, 1905; amending sec. 73 of said chapter, as amended by chap. 184, Laws, 1903; amending sec. 163 of said chapter, as amended by chap. 255, Laws, 1903, and chap. 518, Laws, 1905; and amending sec. 165 of said chapter, as amended by chap. 255, Laws, 1903, relative to issuance of employment certificates for children in factories and mercantile establishments.

Distinguishing the different kinds of age evidence and prescribing order of consideration. Provisions regarding a physician's certificate added. Number of days of required attendance to be during the *twelve months*, instead of the school year, preceding 14th birthday.

Chap. 291, May 6, 1907. (Oct. 1, 1907.)

1057. **New York:** Amending sec. 3, tit. 16, chap. 556, Laws, 1894 (Consolidated School Law), as added by chap. 671, Laws, 1894, and amended by chap. 606, Laws, 1896, chap. 459, Laws, 1903, and chap. 103, Laws, 1907; amending sec. 4 of said title, as added by chap. 671, Laws, 1894, as amended by chap. 606, Laws, 1896, and by chap. 459, Laws, 1903; inserting sec. 4a into said title; and amending sec. 5 of said title, as added by chap. 671, Laws, 1894, and amended by chap. 459, Laws, 1903, chap. 280, Laws, 1905, and chap. 103, Laws, 1907, relative to compulsory education of children.

Harmonizing, with respect to cities of the first and second classes, provisions of compulsory education and labor laws relative to employment certificates, and increasing requirements and data for school record certificates for children between 14 and 16 years of age.

"Section 4a. Any principal or chief executive officer of a school to whom application shall have been made for a school record required under the provisions of the labor law shall issue such school record to said child as follows: Such school record shall be issued and signed by the principal or chief executive officer of the school, which such child has attended and shall be furnished, on demand, to a child entitled thereto or to the board, department or commissioner of health. It shall contain a statement certifying that the child has regularly attended the public schools or schools equivalent thereto or parochial schools for not less than one hundred and thirty days during the twelve months next preceding his fourteenth birthday or during the twelve months next preceding his application for such school record and is able to read and write simple sentences in the English language, and has received during such period instruction in reading, writing, spelling, English grammar and geography and is familiar with the fundamental operations of arithmetic up to and including fractions. Such school record shall also give the date of birth and residence of the child as shown on the records of the school and the name of its parent or guardian or custodian."

Chap. 585, July 15, 1907. (Sept. 1, 1907.)

1058. **New York:** Amending art. 12, chap. 415, Laws, 1897, as added to by chap. 151, Laws, 1903, as amended by chap. 519, Laws, 1905, relative to children working in streets and public places in cities of the first and second classes.

Adding prohibition relative to sale of magazines and periodicals. Providing that the district superintendent or other official appointed by the board of education, before issuing a permit or badge, "shall also

have received, examined and placed on file the written statement of the principal or chief executive officer of the school which the child is attending, stating that such child is an attendant at such school, that he is of the normal development of a child of his age and physically fit for such employment, and that said principal or chief executive officer approves the granting of a permit and badge to such child." Principals must also keep complete lists of all children in their schools possessing permits and badges. Changing date of expiration to the first day of January, and requiring change of color for badge each year. Adding provision "before six o'clock in the morning" to section relating to limit of hours. Providing for revocation and surrender of permits and badges.

Chap. 588, July 16, 1907. (Oct. 1, 1907.)

1050. **North Carolina:** Relative to compulsory attendance in Goldsboro Township, Wylde County.

Providing for compulsory attendance of children between 7 and 13 years. Provisos, exemptions, penalties, etc. (Refers to city of Goldsboro.)

Amended by chap. 778, Mar. 8, 1907, making act effective Jan. 15, 1908.

(Chap. 375, Feb. 25, 1907.)

1060. **North Carolina:** Requiring attendance upon public schools.

Providing for the submission of the question of compulsory attendance, upon petition of any township or school district, by the county board of education. Prescribing procedure for such elections.

In townships and districts adopting compulsory attendance, and upon order of county board of education, children between 8 and 14 years of age must attend public school for sixteen weeks each year, excepting children over 12 years, lawfully employed. Other exemptions: Indigency of parent or guardian, and abnormal mental or physical condition of child.

Constituting the employment of children under 12 a misdemeanor; proviso. Provisions concerning census lists, reports, of attendance by teachers, and prosecutions for violations.

Excepting eleven specified counties from the application of the act.

Chap. 804, Mar. 11, 1907.

1061. **North Carolina:** Compelling white deaf children to attend school.

Prescribing school attendance of forty-five months for white deaf children between the ages of 8 and 15 years. Provisos and exceptions.

Chap. 1007, Mar. 11, 1907.

1062. **North Carolina (1907):** Laws, 1905, p. 227, chap. 213, requiring certain Indian children to attend school, is not unconstitutional as class legislation. *State v. Wolf*, 59 S. E. 40.

1063. **North Carolina:** Amending sec. 2, chap. 213, Laws, 1905, relative to the compulsory attendance of Indian children at school.

Increasing period of required attendance from nine to ten months. Modifying application of act relative to proportion of Indian blood—one-seventeenth instead of one-eighth.

Chap. 59, Jan. 31, 1908 (sp. sess.).

1064. **North Dakota:** Amending sec. 804, Revised Codes, 1905, relative to compulsory education.

Striking out clause concerning eight months' period of attendance for deaf or feeble-minded child. Extending enforcement of act to all children residing within 3 miles of schoolhouse (formerly 2½). Parents and guardians not to be prosecuted without ten days' notification to comply with law.

Chap. 98, Mar. 14, 1907.

1065. **North Dakota:** Amending sec. 8083, Revised Codes, 1905, relative to prohibiting minors in certain public places.

Prohibiting "any person attending a local high school" from playing or being employed in any pool or billiard hall, bowling alley, etc.

Chap. 128, Mar. 19, 1907.



1066. **Ohio:** Repealing and reenacting, with amendments, secs. 1, 2, and 3, S. B. 58, p. 321, Laws, 1904 (sec. 6986-7, Revised Statutes, 1905), and sec. 4, H. B. 34, p. 123, Laws, 1898 (sec. 6986-10, Revised Statutes, 1905), relative to the employment of minors.

Sundry amendments. Age and school certificate provisions strengthened.

H. B. 714, p. 30, Feb. 28, 1908.

- D 1067. **Ohio (1905):** Rev. Stat., sec. 4022a, relating to the attendance of children of school age on the public schools, is violative of constitution, art. 2, sec. 33, in conferring a privilege on a portion of the children of school age who reside farther than 1½ miles from the school where they have a legal residence, and not on others, though similarly situated.—*Cincinnati School District v. Oakley Special School Dist. No. 11*, 27 Ohio Cir. Ct., R., 824.

1068. **Oklahoma:** Providing for the compulsory attendance in the public schools of children between the ages of 8 and 16 years.

Providing for exemptions; procedure for enforcement. Prescribing that necessary books shall be furnished to needy children. Establishing scholarship.

"Sec. 4. If any widowed mother shall make affidavit to the effect that the wages of her child or children, under 16 years of age, are necessary to the support of such widowed mother, then the county superintendent of public instruction may after careful investigation, in his discretion, upon the recommendation of the school district board, or board of education of cities of the first class, furnish such child or children a certificate called a "scholarship," stating the amount of wages such child or children are receiving, or so much of such wages as shall be deemed necessary so long as such child or children shall attend the public school in accordance with the provisions of this act; which aid may be allowed and paid upon the certificate of the county superintendent of public instruction to the child or children holding such scholarship, by the board of county commissioners of the county in which such child or children reside."

Chap. 34, H. B. 31, p. 303, April 10, 1908.

1069. **Oregon:** Repealing secs. 3423, 3424, and 3425, B. and C., 1901, relative to compulsory education.

Compulsory attendance for children 9 to 14 years of age, and children between 14 and 16 years of age not regularly and lawfully employed. Attendance for entire period of public-school sessions. Exceptions. Providing for the appointment and compensation of truant officers. Providing also for procedure for enforcement. (See also p. 79, Laws, 1903, and chap. 208, Laws, 1905.)

Chap. 79, Feb. 23, 1907.

1070. **Pennsylvania:** Amending sec. 1, act No. 335, Acts, 1901, relative to school attendance and certificates.

Providing for the issuance of school certificates by a superintendent of schools, notary public, or anyone who can administer oaths in cities and boroughs, and by secretary of school board in rural districts. Raising age of exemption of working children who can read and write (from 13 to 16) to 14 to 16.

Act No. 237, May 29, 1907.

1071. **Pennsylvania:** Amending secs. 2, 3, and 5, act No. 335, Acts, 1901, relating to school attendance, and providing attendance officers.

Providing penalty of fine of \$10 to \$30 for employment of a child not in attendance at school as stipulated. Authorizing attendance officers to enter any place of employment to inspect the records required by law. Providing penalties for refusal to permit such inspection. Authorizing the dismissal of children illegally employed and providing penalty for violation. Extending the police power of attendance officers to incorrigible children; and providing for proceedings against persons violating the provisions of the act.

Act No. 241, May 29, 1907.

1072. **South Dakota:** Providing for the compulsory education of Indian children at schools when tuition, lodging, and board are furnished at the expense of the United States.

Compulsory period 6 to 18. Prescribing penalties.

Chap. 136, Mar. 8, 1907.

1073. **South Dakota:** Providing for the compulsory education of the deaf and blind.

Defining duties and authority of county judges and county superintendents of schools. Providing for payment of expense.

Chap. 137, Mar. 4, 1907.

1074. **Tennessee:** Providing for and enforcing the education of all children between the ages of 8 and 16 years in counties having a population of not less than 11,000 nor more than 11,100, according to the federal census of 1900, or any subsequent federal census, and a population of not less than 17,300 and not more than 17,400 by the last or any subsequent federal census.

Minimum period of attendance fixed at sixteen consecutive weeks. Providing for exemptions and for the care of indigents. Prohibiting the employing of children of compulsory age during school sessions unless provision concerning minimum school attendance has been complied with. Prescribing conditions for enforcement and penalties for violation.

(Became law without governor's signature.)

Chap. 603, Apr. 2, 1907. (June 30, 1907.)

1075. **Tennessee:** Providing for and enforcing the education of all children between the ages of 8 and 16 years in counties having a population of not less than 17,300 and not more than 17,400, according to the federal census of 1900, or any subsequent federal census.

(Similar act to preceding. Became law without governor's signature.)

Chap. 604, Apr. 4, 1907. (June 30, 1907.)

1076. **Vermont:** Amending sec. 712, chap. 38, Statutes, 1894, as amended by sec. 1, act No. 155, Acts, 1904; sec. 715, chap. 38, Statutes, 1894; sec. 1, act No. 155, Acts, 1904; sec. 716, chap. 38, Statutes, 1894, as amended by sec. 2, act No. 39, Acts, 1904; sec. 718, chap. 38, Statutes, 1894, as amended by sec. 1, act No. 26, Acts, 1898, relative to truancy and child labor.

Extending provisions so as to include quarries and railroad companies. Providing for school certificates for children under 16 years of age who have not completed the elementary course of study of nine years.

Act No. 52, Dec. 10, 1906.

1077. **Vermont:** Providing educational privileges for children of school age in unorganized towns or gores.

Authorizing the commissioner of taxes of unorganized town or gore to assess a tax, not exceeding 50 per cent. for payment of expenses, not to exceed \$1.50 a week. Granting to commissioner of taxes the powers and duties of school directors and truant officers of organized towns; and extending provisions of attendance laws to unorganized towns and gores.

Act No. 59, Nov. 21, 1906. (Apr. 1, 1907.)

1078. **Virginia:** Regulating the employment of children in factories, mercantile establishments, workshops, and mines on and after Mar. 1, 1909.

Fixing minimum age limit at 13 years after Mar. 1, 1909, and at 14 years after Mar. 1, 1910. Providing for exceptions and penalties. (No educational provisions.)

Chap. 301, Mar. 13, 1908.

1079. **Virginia:** Providing, in certain cases, for the compulsory attendance of children between the ages of 8 and 12 years upon the public schools, and providing penalty for failure, and designating the manner of collecting such penalties.

Requiring attendance for twelve weeks in each school year, six of which to be consecutive. Numerous causes for exception. Act to become operative within any county, city, or town only after submission and adoption by qualified electors. Prescribing election procedure.

Chap. 304, Mar. 14, 1908.

1080. **Washington:** Repealing chap. 136, Laws, 1903, relative to child labor, and enacting a substitute.

Prohibiting employment of persons under 19 years of age as messengers. Providing for permits to labor to be issued by judge of juvenile court to male children over 14 years of age.

Chap. 128, Mar. 11, 1907.

1081. **Washington:** Relating to the compulsory education of children between the ages of 8 and 15 years, forbidding the employment of children during the session of the public schools, providing penalties, and repealing conflicting acts.

Chap. 231, Mar. 10, 1907.

1082\*. **Washington:** Amending sec. 71, chap. 118, Laws, 1897 (Code of Public Instruction), relative to compulsory attendance.

Extending annual period of compulsory attendance from three months to the entire session of the public schools.

Sec. 7, chap. 240, Mar. 18, 1907.

1083. **Wisconsin:** See enactment No. 1546.

1084. **Wisconsin:** Amending sec. 558, Statutes, 1898, as amended by chap. 450, Laws, 1901, relative to the apportionment of the school fund.

Requiring the maintenance of an eight (formerly, seven) months session.

Chap. 108, May 16, 1907.

1085\*. **Wisconsin:** Amending secs. 439a and 439b, Statutes, 1898, as amended by chap. 189, Laws, 1903, and adding secs. 439eb, 439ec, and 439ed, relative to attendance at school.

Requiring attendance of children between the ages of 7 and 14, and of those between 14 and 16, unless employed in accordance with chap. 340, Laws, 1903, during entire annual session of school in cities of first class, eight months in other cities, and six months (formerly, five) in towns and villages. Defining "regular attendance." Fixing time of enrollment. Prescribing compulsory attendance without exemption on account of distance from school in districts furnishing transportation. Providing for exemptions of children completing course of study of common schools.

Requiring ten (formerly, three) or more truant officers in cities of the first class, and one or more in cities of over 2,000 (formerly, 10,000) inhabitants. Making sheriff, undersheriff, and deputies truant officers in smaller cities, towns, and villages.

Providing for census lists, reports of attendance and nonattendance of pupils, and for procedure for enforcement of act. Providing also for compensation of truant officers and sheriffs.

Chap. 446, June 29, 1907.

1086. **Wisconsin:** Amending secs. 1 to 10, inclusive, chap. 274, Laws, 1899, as amended by chap. 182, Laws, 1901, as amended by chap. 349, Laws, 1903, and making them secs. 1723a to 1723j, Statutes, 1898, relative to child labor.

Granting to register of probate same power as officers already designated in issuance of child labor permits. Forbidding delegation of such power, and requiring that child must be able to read and write simple sentences in the English or his native language as a condition for granting permit.

Enumerating in greater detail places where children under the age of 16 years may not be employed. Making maximum number of working hours in one week fifty-five. Changing hour limits from 9 at night and 6 in the morning to 6 at night and 7 in the morning, except for children working in stores, or newsboys.

Leaving to person issuing permit decision as to physical ability of child. Increasing minimum fine of employer violating law from \$10 to \$25, and providing that employer or parent may be imprisoned in county jail thirty days.

Chap. 523, July 9, 1907.

1087. **Wyoming:** Repealing secs. 554 and 555, Revised Statutes, 1899, relating to compulsory education, and enacting substitutes.

Fixing period of compulsory attendance: children between 7 and 14 to attend school each year for the first six months, during which the public schools are in session. Exceptions. Providing for enforcement by sheriffs, constables, and truant officers. Clerks of school districts to furnish officers with enumeration lists.

Chap. 93, Feb. 21, 1907.

## I. SCHOOL DISCIPLINE.

The most significant legislative event of the biennium has been the decisive manner in which a number of States have acted against the so-called high school fraternity. The extent of this legislative activity is indicative of the importance that these organizations have assumed in the life of the secondary schools of certain States. Owing to the widespread interest in this legislation, it has been thought desirable to present in full several of these enactments.

### (a) General.

1088. **California:** Adding section 367b to the Penal Code, providing against the offense of hazing.

"Whosoever being a student, or being a person in attendance at any public, private, parochial, or military school, college or other educational institution, conspires to haze or engages in hazing or commit any act that injures, degrades or disgraces, or tends to injure, degrade, or disgrace any fellow student or person attending such institution shall be guilty of a misdemeanor, and upon conviction shall be fined not less than fifty nor more than five hundred dollars, or imprisoned in the county jail not more than six months, or both."

Chap. 483, Mar. 22, 1907.

1089. **Colorado:** Providing for the prevention of "hazing" and other vicious practices in state institutions, and for the punishment thereof.

Requiring officers of state institutions to punish, dismiss, or expel teachers, employees, or students found guilty of hazing.

Chap. 154, Apr. 4, 1907.

D 1000. **Illinois** (1908): "A rule adopted by the board of education of the city of Chicago adverse to secret school societies held neither unreasonable nor unlawful.—*Wilson v. Board of Education of Chicago* (Ill.), 84 N. E., 697.

D 1001. **Illinois** (1908): "PER CURIAM. This was a bill in chancery filed by the plaintiffs in error in the circuit court of Cook County to enjoin the defendant in error from enforcing a rule adopted by the defendant in error known as the "antifraternity rule." A demurrer was interposed to the bill and sustained and the bill dismissed for want of equity. The decree of the circuit court was affirmed by the appellate court for the first district, and this writ of error has been sued out from this court to the appellate court to review the judgment of that court in affirming the decree of the circuit court.

"The questions raised upon this record are identical with those raised in the case of *Wilson v. Board of Education of Chicago*, 233 Ill., 464; 84 N. E., 697, and the decision in that case is decisive of this case. In accordance, therefore, with the holding of this court in that case, the judgment of the appellate court affirming the decree of the circuit court will be affirmed."

Judgment affirmed.—*Favorite et al. v. Board of Education of Chicago*, 85 N. E., 402.

1002. **Indiana**: Enlarging the powers of boards of school commissioners, boards of trustees, township trustees, superintendents of schools, and others having the government of such schools, prohibiting secret societies and fraternities, and declaring an emergency.

"SECTION 1. *Be it enacted* . . . That the common schools of the State of Indiana, both elementary and high schools, shall be open to all children until they complete the courses of study in said common schools, subject to the authority of the teachers therein and to all the rules and regulations provided by the proper authorities for the government of such schools. It shall be unlawful for the pupils in any of the elementary or high schools of this State to form secret societies, fraternities, or other similar organizations in such schools; and the board of school commissioners or board of trustees of any school town or city, and the trustee of any school township, and the superintendent of any school, are hereby required to enforce the provisions of this act by suspending, or, if necessary, expelling a pupil in any elementary or high school who refuses or neglects to obey such rules or regulations or any of them.

"SEC. 3. An emergency exists for the immediate taking effect of this act, and it shall be in force from and after its passage."

Chap. 278, Mar. 12, 1907.

D 1003. **Iowa** (1906): Under Code, sec. 2772, authorizing school directors to make rules and regulations for the government of pupils, the board of directors of a high school had authority to prohibit pupils of such school from playing football in a game purporting to be played under the auspices of the school by a team purporting to represent the school, though the game was not played in school hours nor on or near the school grounds.—*Kinzer v. Directors of Independent School Dist. of Marion*, 105 N. W., 686.

1004. **Kansas**: Making it unlawful for high school pupils to belong to any secret organization in any way connected with public schools.

"SECTION 1. It shall be unlawful for the pupils of any high schools to participate in or be members of any secret fraternity or secret organization whatsoever that is in any degree a school organization.

"SEC. 2. Any boards of education or board of trustees of county high schools are hereby authorized and empowered to deny to any student regularly enrolled in such high school, who shall violate section 1 of this act, any or all of the privileges of such high school or to expel such student for failure or refusal to comply with the requirements of this act.

"SEC. 3. This act shall take effect from and after its publication in the statute-book."

Chap. 320, Mar. 9, 1907.

• See p. 329 for complete text of decision.



1095. **Minnesota:** Prohibiting secret fraternities and societies being formed in the public schools of the State, empowering and making it the duty of school directors to adopt rules and regulations relating thereto and to enforce the same, and making it an offense to solicit pupils to join them, and prescribing the penalty therefor.

*"Prohibits secret fraternities in the public schools.—*SECTION 1. That from and after the passage of this act it shall be unlawful for any pupil, registered as such, and attending any public high school, district, primary or graded school, which is partially or wholly maintained by public funds, to join, become a member of, or to solicit any other pupil of any such school to join, or become a member of any secret fraternity or society wholly or partially formed from the membership of pupils attending any such schools or to take part in the organization or formation of any such fraternity or society, except such societies or associations as are sanctioned by the directors of such schools.

*"Directors to establish rules and regulations.—*SEC. 2. The directors of all such schools shall enforce the provisions of section 1 of this act, and shall have full power and authority to make, adopt and modify all rules and regulations which in their judgment and discretion may be necessary for the proper governing of such schools and enforcing all the provisions of sec. 1 of this act.

*"Directors shall have power to suspend or dismiss.—*SEC. 3. The directors of such schools shall have full power and authority, pursuant to the adoption of such rules and regulations made and adopted by them, to suspend, or dismiss any pupil or pupils of such schools therefrom, or to prevent them, or any of them, from graduating or participating in school honors when, after investigation, in the judgment of such directors, or a majority of them, such pupil or pupils are guilty of violating any of the provisions of sec. 1 of this act, or who are guilty of violating any rule, rules or regulations adopted by such directors for the purpose of governing such schools or enforcing sec. 1 of this act.

*"Soliciting a misdemeanor, by persons, not pupils—municipal and justice courts to have jurisdiction.—*SEC. 4. It is hereby made a misdemeanor for any person, not a pupil of such schools to be upon the school grounds, or to enter any school building for the purpose of 'rushing' or soliciting, while there, any pupil or pupils of such schools to join any fraternity, society, or association organized outside of said schools. All municipal courts and justice courts in this State shall have jurisdiction of all offences committed under this section, and all persons found guilty of such offences shall be fined not less than two dollars nor more than ten dollars, to be paid to the city or village treasurer, when such schools are situated inside of the corporate limits of any city or village, and to the county treasurer, when situated outside of the corporate limits of any such city or village, or upon failure to pay such fine, to be imprisoned for not more than ten days.

*"Sec. 5. All acts and parts of acts inconsistent herewith are hereby repealed."*

Chap. 149, Apr. 11, 1907.

1096. **Minnesota:** Prohibiting the manufacture, sale, or use of adulterated cigarettes, and prohibiting the use of tobacco by persons under 18 and by all minor pupils of the public schools.

Defining age limits, penalties, etc.

Chap. 386, Apr. 24, 1907.

1097. **Ohio:** Abolishing fraternities, sororities, and other like societies among pupils of the public schools.

*"SECTION 1. It shall be unlawful for any pupil of the public schools of the state of Ohio in any manner to organize, join or belong to any fraternity or sorority or other like societies composed or made up of pupils of the public schools."*

*"SEC. 2. It shall be the duty of every teacher, principal, or superintendent having knowledge or reason to believe that such fraternity, sorority, or like society is being organized or maintained in any of the schools of the state, or that any of the pupils attending said schools are organizing*

or belonging to such fraternity, sorority or like society, to advise immediately the president or secretary of the board of education in charge of such schools of such facts. Upon receipt of such notice, it shall be the duty of such board of education, within thirty days after the receipt thereof, and after not less than ten days' written notice to the persons charged with violating this act, or to their parents or guardians, to investigate the charges therein contained, and if such board of education find the same to be correct and true, it shall be the duty of the secretary of such board to notify immediately, in writing, any and all pupils organizing, joining or belonging to such fraternity, sorority or like society to disband and discontinue the same and to withdraw therefrom within five days from the receipt of said notice.

"And if within such time any pupil guilty of organizing, joining or belonging to any such fraternity, sorority or like society shall fail to obey said notice, said pupil shall have violated the rules of the school and be immediately suspended from the public schools of this state by the superintendent or principal in charge of the same in cities or districts having such superintendent or principal, or by the clerk of the board of education in villages, special and township districts not having such superintendent or principal, until such pupil shall comply with the order of the board.

"Sec. 3. Any officer, teacher, principal, superintendent or other persons mentioned in this act neglecting to perform any duty imposed upon him by this act, upon conviction thereof, shall be fined not less than ten dollars (\$10) nor more than twenty-five dollars (\$25) for each offense.

"Sec. 4. This act shall take effect and be in force from and after the first day of July, 1908."

H. B. 1120, p. 253, Apr. 30, 1908. (July 1, 1908.)

D 1008. Washington (1905): Laws, 1905, p. 328, chap. 156, sec. 12, prohibiting "any person" from disturbing a public school, is sufficiently broad to include an enrolled pupil of the school disturbed. --State v. Packenhams, 82 P. 597; 40 Wash., 403.

D 1009. Washington (1906): Ballinger's Ann. Codes and Stat., sec. 2334, provides that every common school shall be open to all children between the specified school ages. Sec. 2339 provides that all pupils shall comply with the regulations established for the government of the schools and submit to the authority of teachers, and sec. 2362, subdly. 5, authorizes school directors to adopt and enforce such regulations as may be deemed essential to the well-being of the school, and subdly. 6 authorizes them to suspend or expel the pupils who refuse to obey the rules. *Held*, that the directors of a school district had authority to deny to those pupils belonging to a secret fraternity contrary to the rules of the school participation in athletic, literary, military, and similar school organizations, constituting no part of the school work, though the meetings of the fraternity were held at the homes of the members, after school hours, and with parental consent. --Wayland v. Board of School Directors of Dist. No. 1, Seattle, 86 P. 642.

1100. Wisconsin: Creating secs. 4608v and 4608w, Statutes, 1908, prohibiting the use of cigarettes, cigars, and tobacco by persons under sixteen years of age.

Providing fine of not more than \$10 or imprisonment for not more than thirty days for any person under sixteen found using tobacco in any public place when not accompanied by parent or guardian. Providing same punishment with increase to \$25 for second offense, or for anyone allowing such a person to use tobacco in or upon premises occupied by him.

Chap. 463, July 1, 1907.

## (b) Corporal Punishment.

D 1101. **North Carolina** (1904): Where a school-teacher exercises his judgment in whipping a pupil, the presumption is that he exercised it correctly.—*State v. Thornton*, 48 S. E., 602; 136 N. C., 610.

Within the sphere of his authority, the school-teacher is the judge as to when the correction of a pupil is required, and of the degree of correction necessary.—*Ibid.*

When the correction administered by a school-teacher is not in itself immoderate, and therefore beyond the authority of the teacher, his legality or illegality must depend entirely on the *quo animo* with which it is administered.—*Ibid.*

Where a school has not been well managed prior to defendant's employment as teacher, and he was specially requested to be more strict in compelling obedience to the rules, he has no more authority by reason thereof than he would otherwise have possessed.—*Ibid.*

D 1102. **Texas** (1907): The jury, in determining whether a teacher, who punished a scholar, was guilty of assault, must consider his acts and the acts of the scholar, and the teacher's guilt must not be measured alone by severity of the punishment, but by his intention in inflicting it; and if the punishment was inflicted in good faith, without intention to injure the scholar, but only to enforce the rules of the school, the teacher was not guilty, though he used more force than was necessary.—*Greer v. State*, 106 S. W., 359.

Where a teacher corrects a scholar and inflicts corporal punishment, the presumption is that the same is done in the exercise of lawful authority, and it does not devolve on the teacher to show his innocent intention; and, if the punishment is inflicted without any intent to injure the scholar, the teacher is not guilty of assault, though the punishment is more severe than necessary.—*Ibid.*

## (c) Suspension and Expulsion.

1103. **Kansas**: Repealing, and reenacting with amendment, sec. 14, chap. 147, Laws, 1886, relative to county high schools in counties having a population of 6,000 or over.

Defining authority of principal over pupils and granting power to suspend such. Providing for committee to examine teachers. Prescribing qualifications of teachers.

Chap. 335, Mar. 9, 1907.

D 1104. **Wisconsin** (1908): A school board has no power to require the payment of money as a condition of reinstatement of pupils under suspension.—*State v. District Board of School Dist. No. 1 (Wis.)*, 232.

A school board may, under the express provisions of Stat., 1898, sec. 439, make all rules needful for the government of the school, and may suspend any pupil for noncompliance with rules made by it or by the teacher with its consent.—*Ibid.*

A pupil may be punished for misconduct, although no rule has been promulgated in regard to such conduct.—*Ibid.*

Power of school authorities to suspend pupils stated.—*Ibid.*

See p. 333 for complete text of decision.

## (d) Fire Drills.

The single enactment indicated under this heading is a reminder of the greatest disaster to school children which has ever happened in this country. The compulsory fire drill will, perhaps, serve a valuable purpose, yet it will not take the place of safely and honestly constructed school buildings. The example set by Ohio in respect to these fire drills is one that will probably be followed by other States in which there is a full appreciation of the danger to which thousands of American school children are exposed each day.

1105\*. Ohio: Providing for the protection of the lives of school children by an adequate compulsory fire drill.

"SECTION 1. It shall be the duty of the principal or other person in charge of every public or private school or educational institution within the state, having an average daily attendance of fifty or more pupils, to instruct and train the pupils by means of drills, so that they may in sudden emergency be able to leave the school building in the shortest possible time and without confusion or panic. Such drills or rapid dismissals shall be held at least once for each month when said schools are in session and all doors of exit shall be kept unlocked during school hours.

"That every teacher or instructor in every public, private or parochial school shall devote not less than thirty minutes in each month during which the school is in session, to instruction of pupils between the ages of six and fourteen years, in fire dangers.

"For the purpose of such instruction it shall be the duty of the state fire marshal to prepare a book conveniently arranged in chapters, or lessons, such chapters or lessons to be in number sufficient to provide a different chapter or lesson for each week of the maximum school year, one of such lessons to be read by the teachers in such schools each week. The books shall be published at the expense of the state under the direction of the state school commissioner and shall be distributed in quantities sufficient to provide a copy for each teacher required by the provisions of this act to give the instruction herein provided for; the distribution to be made by the state school commissioner.

"SEC. 2. Willful neglect by any principal or other person in charge of any public or private school or educational institution to comply with the provision of this act, shall be a misdemeanor, punishable, each offense, by a fine of not more than twenty nor less than five dollars.

"SEC. 3. It shall be the duty of the members of school boards, school directors, trustees, or other body of persons having control of the schools of any township, town or city, to cause a copy of this act to be printed in the manual or handbook prepared for the guidance of teachers, where such manual is in use or may hereafter come in use.

"SEC. 4. The provisions of this act shall not apply to colleges and universities."

H. B. 1100, p. 231, Apr. 28, 1908.

## J. HEALTH REGULATIONS.

Among the comparatively few enactments in this section are to be found several which, when taken in connection with the judicial interpretations cited, may easily be regarded as of eminently progressive rank. That of Connecticut (1120) concerning the appointment of school physicians, that of Louisiana (1121) relative to physical examination of children, that of Massachusetts (1123) relative to the appointment of school nurses in Boston, and that of

Virginia (1125) providing for the testing of the sight and hearing of pupils of public schools represent a new and growing movement to increase the effectiveness of the efforts of the public school.

The several judicial decisions cited, Arkansas (1106), Illinois (1108), Massachusetts (1111), New York (1112), North Carolina (1113), Ohio (1115), and Pennsylvania (1117, 1118), while not perhaps of wide general interest, are clearly indicative that the practice of vaccination has become firmly fixed as a part of our general American protective social policy.

The Massachusetts act (1110), adding instruction as to tuberculosis and its prevention to the prescribed list of subjects to be taught in the public schools, is classified here in spite of its very obvious misplacement.

(a) General.

D 1106. **Arkansas** (1907): A child of school age, seeking to compel the school board to admit him to a school without first complying with a rule of the board requiring a pupil before admission to the school to be vaccinated, can not complain that the rule makes a certificate of a reputable physician showing that the pupil has been successfully vaccinated conclusive evidence in favor of the pupil that he has complied with the rule.—*Anten v. Board of Directors of Special School Dist. of Little Rock*, 104 S. W., 130.

1107. **California**: Providing for the preservation of the public health, and empowering state board of health to enforce provisions, and providing penalties for violation.

Providing for the protection of schools by the exclusion of those affected with any contagious, infectious, or communicable disease.

Sec. 17, chap. 492, Mar. 22, 1907.

D 1108. **Illinois** (1908):<sup>a</sup> The general police powers of a city authorizing ordinances for the promotion of health or the suppression of disease do not include the passage of an ordinance making vaccination a condition precedent to the right of education.—*People v. Board of Education of City of Chicago* (111), 84 N. E., 1046.

A city ordinance prohibiting any child not vaccinated within seven years from attending school held unreasonable and void.—*Ibid.*

1109. **Massachusetts**: Amending sec. 6, chap. 44, Revised Laws, 1902, as amended by chap. 371, Acts, 1906, relative to certificates of exemption from vaccination of children attending public schools.

Providing that physician's certificate contain statement of cause for which granted.

Chap. 215, Mar. 16, 1907.

1110. **Massachusetts**: Amending sec. 1, chap. 42, Revised Laws, 1902, relative to instruction in public schools.

Adding instruction "as to tuberculosis and its prevention" to the prescribed list.

Chap. 181, Mar. 6, 1908.

<sup>a</sup> See p. 320 for complete text of decision.



- D 1111. **Massachusetts** (1907): Rev. Laws, chap. 42, sec. 27, gives the school committee of a town general charge and superintendence of all public schools. Chap. 44, sec. 3, gives children the right to attend the public schools, subject to such reasonable regulations as to qualifications of pupils and other school matters as the school committee shall from time to time prescribe. Sec. 6 provides that a child who has not been vaccinated shall not be admitted to a public school except on presentation of a certificate signed by a regular physician that he is not a fit subject for vaccination. During an epidemic of smallpox a school committee enacted a regulation excluding from attendance all unvaccinated children. *Held*, that the town was not liable for excluding a pupil under such regulation, though she presented the certificate that she was not a fit subject for vaccination, as the exception contained in sec. 6 has no application when there is particular reason to apprehend danger from an epidemic of smallpox.—*Hammond v. Town of Hyde Park*, 80 N. E., 650.
- D 1112. **New York** (1904): Laws, 1893, p. 1495, chap. 661, as amended by Laws, 1900, p. 1484, chap. 637, sec. 2, being sec. 210 of the public health law, excluding children not vaccinated from the public schools until vaccinated, is a health law enacted in the reasonable exercise of the police power. Judgment (Sup. 1903) 84 N. Y. S., 712, affirmed.—*Vie-meister v. White*, 72 N. E., 97; 179 N. Y., 235.
- D 1113. **North Carolina** (1904):<sup>a</sup> Rule of school board of city making a scholar's vaccination prerequisite to attendance *held* authorized, and applicable to a child, though her health would not admit vaccination.—*Hutchins v. School Committee of Town of Durham*, 49 S. E., 46.
1114. **North Dakota**: Providing for the creating of a public health laboratory, for the control of such laboratory, and for the appointment and duties of a director.  
Laboratory to be established at the state university. Professor of bacteriology in the medical college to be director and ex officio state bacteriologist.  
Chap. 238, Mar. 7, 1907.
- D 1115. **Ohio** (1905): Rev. Stat., sec. 3086, empowering the board of education of any school district to make and enforce such rules and regulations to secure the vaccination of, and to prevent the spread of smallpox among, the pupils attending, or eligible to attend, the schools of the district, as in its opinion the safety and interests of the public require, is a reasonable exercise of the police power of the State, and the validity of a resolution passed by a board of education under the power thereby conferred, excluding from the public schools all children not vaccinated, or who did not furnish a physician's certificate excusing them from vaccination, does not depend upon the actual existence of smallpox in the community, nor upon an apprehended epidemic of that disease.—(1907) *State v. Board of Education of Village of Barberton*, 81 N. E., 568; 76 Ohio St., 297, affirming judgment 29 Ohio Cir. Ct. R., 375.
1116. **Oregon**: Providing for the establishment and enforcement of quarantine regulations.  
Prohibiting the attendance at school of persons from quarantined places.  
Sec. 7; chap. 70, Feb. 23, 1907.
- D 1117. **Pennsylvania** (1906):<sup>b</sup> Act June 18, 1895 (P. L., 203), requiring exclusion from public schools of children who have not been vaccinated, is a valid exercise of the police power.—*Stull v. Reber* (Pa.), 419.  
Act June 18, 1895 (P. L., 203), relating to vaccination of children in public schools, *held* not a violation of constitution, art. 10, sec. 1, requiring maintenance of public schools.—*Ibid*.

<sup>a</sup> See p. 322 for complete text of decision.<sup>b</sup> See p. 326 for complete text of decision.

Act June 18, 1895, secs. 11, 12 (P. L., 206, 207), considered and *held* that the fact that there has been no smallpox in a certain locality for forty years does not prevent application of sec. 12, excluding unvaccinated children.—*Ibid.*

Act June 18, 1895, sec. 12 (P. L., 207), excluding unvaccinated children from the public schools, *held* not a trespass on the reserved rights of an individual beyond the police power.—*Ibid.*

1118. **Pennsylvania** (1907): Act June 18, 1895 (P. L., 2034), provides that persons in charge of schools shall refuse admission to children except on certificate of a physician that they have been successfully vaccinated or had smallpox. *Held*, that such duty is imposed upon superintendents, principals, and teachers in charge of schools, and mandamus will not lie to compel school directors to exclude a child from school who has failed to obtain a certificate.—*Commonwealth v. Rowe*, 67 A., 50; 218 Pa., 163.

1119. **Wisconsin**: Creating secs. 14131, 1413m, and 1413n, Statutes, 1898, providing for the control of smallpox in school districts.

Requiring local board of health to prohibit attendance at school for twenty-five days of all persons not recently vaccinated whenever smallpox is present in the district. Providing for renewal of prohibition for another twenty-five days if necessary; and for payment for vaccination of children of indigent parents, or, if necessary, for free vaccination of all children.

Chap. 113, May 20, 1907.

#### (b) Physical Examination and Medical Inspection.

1120. **Connecticut**: Concerning the appointment and duties of school physicians.

"SECTION 1. The board of school visitors, board of education, or town school committee of any town, or the board of education or committee of any school district, may appoint one or more school physicians and assign one to any public school within the limits of such town or school district, and shall provide such school physicians, when so appointed, with proper facilities for the performance of their duties.

"SEC. 2. Every school physician so appointed shall make a prompt examination of all children referred to him as hereinafter provided, and such further examination of teachers, janitors, and school buildings as in his opinion the protection of the health of the pupils may require.

"SEC. 3. The superintendent, principal, or teacher of any school to which a school physician has been assigned as hereinbefore provided shall refer to such physician every child returning to school without a permit from the health officer or board of health, after absence on account of illness or from unknown cause, and every child attending such school who appears to be in ill health, or is suspected of being sick with any contagious or infectious disease, unless such child be immediately excluded from such school under the provisions of the general statutes or the sanitary regulations in force in said town or district; provided, that in the case of schools in remote and isolated locations the school committee may make such other arrangements as may be advisable to carry out the purposes of this act.

"SEC. 4. The school authorities of any town or school district which has appointed a school physician in accordance with the provisions of this act shall cause every child attending the public schools therein to be separately and carefully tested and examined at least once in every school year, to ascertain whether such child is suffering from defective sight or hearing, or from any other physical disability tending to prevent such child from receiving the full benefit of school work, or requiring a modification of such school work in order to prevent injury to the child or to secure the best educational results.

"SEC. 5. Notice of the disease or defects, if any, from which any child is found by such school physician to be suffering shall be given to the

parent or guardian of such child with such advice or order relating thereto as said physician may deem advisable, and whenever any child shows symptoms of any contagious or infectious disease notice shall also be given to the health officer or board of health and such child may be excluded from attendance at such school in accordance with the provisions of the general statutes or the sanitary regulations in force in the town or district.

"Sec. 6. Whenever the board of school visitors, board of education, or town school committee of any town, or the board of education or district committee of any school district shall have appointed a school physician as provided in section one of this act, said board or committee may also appoint a matron or nurse who shall take such action, under the direction of the school physician, as may be necessary for safeguarding the health of the pupils and teachers of the schools. Such matron or nurse shall also act, under the direction of the school physician, as a visiting nurse in the town or school district, shall visit the homes of pupils in the public schools, and shall assist in executing the order of the school physician.

"Sec. 7. The expenses incurred under the provisions of this act shall be paid in the same manner as are the ordinary expenses for the support of schools in the several towns and school districts."

Chap. 207, July 11, 1907.

- 1121\*. **Louisiana:** Requiring the state board of health and superintendent of education to prepare or cause to be prepared suitable test cards, blanks, and record books, and all necessary appliances to be used in testing the sight and hearing of pupils in public schools.

Act No. 202, July 9, 1908.

1122. **Massachusetts:** Amending sec. 6, chap. 502, Acts, 1906, relative to medical inspection in public schools.

Increasing authorized annual expenditure by state board of education to \$800 (formerly, \$500).

Chap. 189, Mar. 10, 1908.

1123. **Massachusetts:** Relating to the appointment of nurses by the school committee of the city of Boston.

"SECTION 1. The school committee of the city of Boston shall appoint one supervising female nurse and so many district female nurses as in their opinion are necessary. The said nurses shall hold office for such terms as the school committee may determine and shall perform such duties as the committee may designate, but more particularly they shall assist the medical inspectors in their work in the public schools of the city, seeing that the directions given by the inspectors are carried out, and giving such instruction to the pupils as will promote their physical welfare.

"SEC. 2. No person shall be appointed as one of the said nurses unless she has taken a course of instruction in, and has graduated from, some hospital or similar institution giving a course of instruction in nursing at least two years in length, and has presented to the school committee satisfactory evidence that she possesses good character and health, nor unless, in addition, she shall have passed an examination given under the direction of the school committee and designed to test the applicant's training, knowledge, character, experience and aptness for the work.

"SEC. 3. To meet the expense incurred under this act the school committee of the city may appropriate, in addition to the amounts allowed by chapter four hundred and forty-eight of the acts of the year nineteen hundred and one, and in the same manner in which other appropriations for the support of the public schools of the city are made by the school committee, a sum not exceeding ten thousand dollars in the current financial year, and in each year thereafter two cents upon each one thousand dollars of the valuation upon which the appropriations of the city council of the city are based."

Chap. 357, May 3, 1907.

1124. **Massachusetts:** Repealing sec. 7, chap. 502, Acts, 1906, limiting expenditures for medical inspection in the public schools.

Chap. 412, Apr. 17, 1908.

1125. **Virginia:** Providing for the testing of the sight and hearing of pupils in public schools.

Directing state superintendent to prepare, with the advice and approval of state board of health, suitable test cards, blanks, record books, instructions, etc. Principal or teacher to make examinations. Reports to state superintendent. Appropriating \$400 for 1908 and \$300 annually thereafter.

Chap. 377, Mar. 14, 1908.

### K. TEXT-BOOKS AND SUPPLIES.

Of the legislation grouped under the general heading of text-books and supplies, those enactments having to do with the creation and organization of special text-book commissions for the purpose of securing uniform text-books occupy the more important position. Several of the States amended in a more or less important manner existing laws with reference to these text-book commissions. Idaho (1146), Montana (1148), Nevada (1149), Oklahoma (1151), and Texas (1153) each created state text-book commissions; Missouri (1147) provided for county uniformity and the creation of a county text-book commission; Wisconsin (1154) attempted to secure county uniformity in a manner which precluded success.

The four enactments having to do with free text-books are of undoubted importance to the communities to which they apply.

The two enactments in Indiana (1128, 1129) relating to the sale of schoolbooks and the enactment in Louisiana (1132) giving preference to Louisiana text-books may be noted in passing.

#### (a) General.

1126. **Arizona:** Amending subdivs. 2 and 3, par. 2234 (sec. 134, chap. 18, tit. 19), Revised Statutes, 1901, relative to the time and manner of adopting text-books.

Changes to be made only in May or June, instead of in July or August.

Requiring thirty instead of sixty days' notice of proposed changes. Repealing provision that no change shall be made without the recommendation of a majority of the county superintendents.

Sec. 22, chap. 67, Mar. 21, 1907. (Apr. 1, 1907.)

1127. **California:** Amending sec. 1874, Political Code, 1900, relative to the duties of state text-book committee.

Repealing provision concerning supplementary books. Modifying manner of payment for text-books for school-district libraries. Omitting provision concerning secretary of committee (already provided for by chap. 582, Statutes, 1905). Sundry minor alterations.

Chap. 515, Mar. 28, 1907.

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1128. **Indiana:** Relating to sale of schoolbooks.

Requiring that contracts for schoolbooks, entered into by state board of education, shall provide for distribution and sale through local tradesmen. Maximum commission of 10 per cent.

Township trustees or board of school trustees to distribute and sell books only after failure to secure local tradesman. Governor to issue proclamation.

[See secs. 5853-5899, Burns' Annotated Statutes, 1901.]

Chap. 99, Mar. 2, 1907.

1129. **Indiana:** Relating to the sale of schoolbooks.

County superintendent to appoint some dealer or merchant to act as depository for sale and distribution of schoolbooks contracted for by state board of schoolbook commissioners. Providing for contracts, bonds, prices, discounts, payments, etc. Proclamation by governor.

[See secs. 5853-5899, Burns' Annotated Statutes, 1901.]

Chap. 273, Mar. 12, 1907.

1130. **Kansas:** Repealing and reenacting with amendments sec. 6467, General Statutes, 1901, relative to the establishment of agencies at the county seat in each county. Providing for agencies in cities of the first, second, and third classes for the handling, sale, and exchange of schoolbooks.

Chap. 68, Jan. 30, 1908.

1131. **Louisiana:** See enactment No. 23.

1132. **Louisiana:** See enactment No. 73.

D 1133. **Missouri (1908):** A majority of the patrons of a school district have no authority, after the repeal by Laws, 1905, p. 302, of Rev. Stat., 1893, chap. 154, art. 7, creating a school-book commissioner, to determine what books the children in the school shall use in opposition to the will of the teacher of the school where the directors, if possessing the power, under sec. 9764 (Ann. Stat., 1900, p. 4478), to select books, failed to do so.—State ex rel. Moore v. Millsap, 108 S. W., 1133.

1134\*. **Ohio:** Repealing, and reenacting with amendments, sec. 5 (S. B. 249, p. 282, Laws, 1896), act of Apr. 22, 1896 (sec. 4020-14, Revised Statutes, 1905), relative to supplying the schools with good and sufficient school books at the lowest possible prices.

Making it unlawful for superintendents, supervisors, or principals to act as sales agents, directly or indirectly, of text-books. Other minor amendments.

H. B. 1052, p. 460, May 9, 1908.

1135. **South Carolina:** Amending sec. 1239, vol. 1, Code, 1902, relating to the sale of books by county superintendents of education.

Provisions of section made permissive for Newberry County.

Act No. 227, p. 481, Feb. 13, 1907.

D 1136. **South Carolina (1906):** Civ. Code, 1902, sec. 1175, providing that the state superintendent of education shall have general supervision over all the school funds and shall secure, under advice of the state board of education, uniformity in the use of text-books, and sec. 1184, conferring on the state board of education power to prescribe and enforce the use of a uniform series of text-books, and requiring publishers, in the discretion of the board, to establish in each county one or more depositories of their books within the State, do not prevent the state board of education from providing by contract with publishers of school text-books that they shall maintain at the state capital a central wholesale depository from which its agencies and county depositories may be supplied at a discount of not less than 10 per cent.—Duncan v. Heyward, 54 S. E., 760.



1137. **Tennessee:** Amending sec. 8, chap. 205, Acts, 1899, creating a state text-book commission, and procuring for use in the public free schools a uniform series of text-books, etc.

Providing that depositories of text-books shall only appoint agents or merchants who are citizens and residents of the county, and that said agents shall sell and exchange books only in the State of Tennessee.

Chap. 67, Feb. 12, 1907.

- D 1138. **West Virginia (1907):** A publisher of schoolbooks having a contract with the schoolbook board for furnishing books can not compel the board to continue or renew its contract for five years after its expiration on the ground that the board changed books without a sufficient vote.—*Ginn & Co. v. School Book Board of Berkeley County*, 59 S. E., 177.

- D 1139. **Wisconsin (1906):** Where a school board, acting without authority, orders a change in text-books, mandamus will lie to compel the granting of school privileges to a child not complying with such regulation.—*Harley v. Lindemann*, 109 N. W., 570, 129 Wis., 514.

#### (b) Free Text-Books.

- 1139a. **California:** See enactment No. 1568.

1140. **Connecticut:** Amending sec. 2135, General Statutes, 1902, concerning text-books and supplies.

Adding provision that upon the petition of 20 legal voters the vote to direct school officers to provide free text-books and supplies shall be by ballot.

Chap. 40, Apr. 17, 1907.

- 1141\*. **Maryland:** Amending in a minor manner sec. 67, art. 77, Public General Laws, 1904, relative to annual state appropriation of \$150,000 for text-books.

Chap. 635, p. 227, Apr. 6, 1908. (Aug. 1, 1908.)

1142. **New York:** Providing for free text-books in the public schools of the city of Schenectady.

Text-books to be furnished free of expense to all pupils of the public schools only after submission of question to electors.

Chap. 174, Apr. 19, 1907.

#### (c) Uniformity of Text-Books.

1143. **Alabama:** Amending sec. 22, act No. 312, p. 474, Laws, 1903, creating a state text-book commission and providing for a uniform series of text-books.

Exceptions to act in case of counties having previously adopted a uniform system of text-books limited to Sept. 1, 1908.

Act No. 312, p. 474, July 11, 1907.

1144. **Alabama:** Creating a text-book commission and procuring for use in public schools a uniform series of text-books; defining duties and powers of said commission; making appropriation for carrying the act into effect; and providing for penalties for violations.

Reenacting with numerous amendments act No. 164, p. 167, Laws, 1903.

Act No. 778, p. 762, Aug. 18, 1907. (Secs. 1805-1850, Code, 1907.)

D 1145. **Alabama** (1904): The provisions of the uniform text-book law (act Mar. 4, 1903, p. 187), being germane and complementary to the subject expressed in the title, constitution, art 4, sec. 45, requiring every law to contain but one subject, which shall be clearly expressed in the title, is not contravened thereby.—*Dickinson v. Cunningham*, 37 So., 345, 140 Ala., 527.

1146\*. **Idaho**: Providing for the appointment of a state board of text-book commissioners for the purpose of selecting a uniform series of text-books and making contracts for same; defining duties of said board of text-book commissioners and making an appropriation for carrying out the purposes of the act.

Providing for the appointment of a board of text-book commissioners consisting of seven members, one of whom shall be the state superintendent of public instruction. Prescribing organization, powers, and duties of board.

S. B., No. 84, p. 476, Mar. 14, 1907.

1147\*. **Missouri**: Creating a county text-book commission, providing for county uniformity and city adoptions, licensing school text-book publishers, regulating prices of school text-books, prohibiting changes of text-books oftener than once in five years, providing for the sale of books to pupils at cost, preventing loss to families that move, prohibiting combinations of publishers of school text-books, and providing penalties for violations.

"SECTION 1. There is hereby created a county school text-book commission, which shall be the county board of education, in all counties in which such a board exists. In counties where there is no county board of education the school text-book commission shall consist of the county superintendent of schools and two teachers, who shall be selected in the same manner and at the same time as the two members of the county board of education that are appointed in those counties that have a county commissioner of schools: *Provided*, that no person shall be appointed to serve on the said commission who has been in the employ, as a traveling salesman or otherwise, in this state, of any publisher of school text-books within the period of two years prior to this act. Vacancies on the commission resulting from death, resignation, removal from the county, disqualification, or otherwise, shall be filled as prescribed by law. A majority of the commission shall constitute a quorum for the transaction of all business of the commission.

"SEC. 2. The county text-book commission shall meet at the county seat to organize within thirty days from the date of the taking effect of this act. The county superintendent or county commissioner(s) shall be ex-officio president of the commission, and a secretary shall be elected from its own membership. Said commission shall meet annually thereafter, and special meetings may be called by the president, or on the written request of the other two members. The president shall preside at all meetings of the commission, and the secretary shall keep the records of the meetings, and all contracts shall be signed by both the president and secretary. Members of said commission that do not receive an annual salary from the county shall receive five dollars per day for their services, with such additional amount as shall be necessary to cover their actual traveling expenses: *Provided*, that they shall receive pay for not to exceed six days in any one year, the same to be audited and paid by the county court.

"SEC. 3. Said commission shall adopt from the authorized state list, as hereinafter provided, a uniform series of text-books for use in the schools of all the districts of the county, except that in cities having more than one thousand children of school age, as shown by the last enumeration, and in towns having high schools affiliated with the state university, the board of directors of said cities and said towns may select from the aforesaid list such books as in their opinion are best suited to the local conditions, and may contract for the same.

"SEC. 4. Before the publisher of any school text-book shall offer the same for sale to any county text-book commission or board of school directors in the state of Missouri, said publisher shall file a copy of said

text-book in the office of the state superintendent of public schools with a sworn statement of the list price and the lowest net price at which said book is sold anywhere in the United States under like conditions of distribution. Said publisher shall file with the state superintendent a written agreement to furnish said book or books to the county text-book commissions or boards of directors of Missouri at the price so filed. Said publisher must further agree to reduce such prices in Missouri if reductions are made elsewhere in the country, so that at no time may any book be sold in Missouri at a higher price than is received for the same book elsewhere in the country where like methods of distribution prevail. Said publisher shall further agree that all books offered for sale in Missouri shall be equal in quality to those deposited in the office of the state superintendent as regards paper, binding, print, illustration and all points that may affect the value of said books.

Sec. 4a. Before the publisher of any school text-book shall offer the same for sale to any county text-book commission or board of school directors in the state of Missouri, and at the time of the filing of such text-book in the office of state superintendent of public schools, said publisher shall pay into the treasury of the state of Missouri a filing fee of ten dollars for each book offered by said publisher. A series of books by the same author and upon the same subject shall constitute one book for this purpose. The fees thus received shall constitute a fund out of which upon requisition made by the state superintendent of public schools shall be paid the expenses of publishing lists and other information for the use of the county school text-book commissions, clerk hire and other necessary expenses in connection with the filing of all text-books submitted for adoption in the state of Missouri. Any balance remaining in such fund shall be, upon the first of January of each year, placed to the credit of the general revenue fund of the state.

"Sec. 5. To insure compliance with the aforesaid conditions under which school text-books may be sold in the state of Missouri, said publisher shall file with the state superintendent a bond of not less than two thousand dollars nor more than ten thousand dollars, said bond to be approved by the state superintendent and the amount to be fixed by him; upon compliance with this and the preceding section, said publisher shall thereupon be licensed to sell school books in this state.

"Sec. 6. If in any case said publisher shall furnish books inferior in any particular to the samples on file with the state superintendent, or shall require higher prices than those listed with the state superintendent, then it shall become the duty of the county text-book commission, or board of directors, to inform the state superintendent of the failure of said publisher to comply with the terms of his contract. The state superintendent shall thereupon notify the publisher of said complaint, and, if said publisher shall disregard the notification and fail to immediately comply with the terms of his contract, then the state superintendent shall institute legal proceedings for the forfeiture of the bond of said publisher.

"Sec. 7. During the month of April, 1907, and thereafter annually, during the month of January, it shall be the duty of the state superintendent to furnish each county superintendent or county commissioner with a list of publishers who shall have conformed to the requirements hereinbefore set forth relating to sample books, prices and bond.

"Sec. 8. Before seeking to enter into contract with any county text-book commission, or board of directors, for the schools covered by this act, the publisher shall furnish the county superintendent or county commissioner or secretary of the board of directors with a duplicate printed list of the books and prices filed with the state superintendent. When any book or series of books in such list shall have been adopted by the county commission or by the board of directors in said county, it shall be the duty of said publisher of said book or books to furnish each county superintendent or county commissioner with a sample of the same, to remain in the office of said county superintendent or county commissioner, and to be the property of said county.

"Sec. 9. The county text-book commissions are hereby empowered to adopt text-books for all subjects that may be taught in the public schools of their respective counties, and to enter into contract for the same for a period of five years in the manner hereinafter provided. All books adopted by the county commission shall be used exclusively in the schools

of the county, except in such towns and cities as are exempt in section 3 of this act; and, further, except that all books introduced into the public schools since May 1, 1906, either through the action of boards of directors or on the recommendation of county superintendents or county boards of education, may be continued in use for a period of five years from the date of the introduction of said books: Provided, that publishers of said books shall comply with all the requirements of sections 4 and 5 of this act prior to August 1, 1907.

"Sec. 10. Said commissions shall make no changes until they shall have advertised for bids for at least two successive weeks in one or more county papers, and the adoption of such books shall not be made until the expiration of at least fourteen days from the date at which such advertisement first appeared. Such advertisement shall specify subjects in which changes will be considered and the probable number of books of each kind required.

"Sec. 11. In selecting books the text-book commission shall carefully consider the price, character of the subject matter, binding, illustrations, print and paper, the adaptability to local conditions, and all points that affect the value of the book.

"Sec. 11a. In all counties where the county court does not elect to purchase text-books and sell the same to pupils at cost, as hereinafter provided, the publisher making contracts under this act shall sell and furnish to all dealers or merchants of said county, or to dealers or merchants in contiguous territory, all adopted text-books at the net contract price. No dealer shall sell said books at more than fifteen per cent advance on said net contract price.

"Sec. 12. When any county text-book commission or board of directors shall adopt books and enter into contracts with the publishers thereof such contracts shall provide a reasonable exchange price for the books displaced by adoption.

"Sec. 13. Any teacher or school director who, within eight months after the county board of education shall have adopted a list of text-books for such county, shall sanction or permit the use of any book not in accordance with the provisions of this act shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than twenty-five dollars nor more than one hundred dollars. If any county text-book commission or board of directors shall attempt to change any text-book before the expiration of a contract for the same, made under this act any member of such commission or board, who votes for such unlawful change, shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than twenty-five dollars nor more than one hundred dollars. Any publisher, or agent of said publisher, who shall connive at or seek to procure such unlawful change, shall be guilty of a misdemeanor, and subject to a like penalty.

"Sec. 14. Nothing in this act shall be construed to prevent the use of supplementary books as shall be furnished at the expense of the school district, provided such supplementary books shall not displace books regularly adopted under the provisions of this act.

"Sec. 15. The boards of directors of each school district shall have authority to purchase all necessary books for indigent pupils and pay for the same out of the incidental funds of the district.

"Sec. 16. Boards of directors of cities and towns exempt from county uniformity under section 3 of this act, who may not accept county uniformity, may adopt and contract for books from the state list under the same restrictions and in the same general manner as herein provided for the adoption of books by the county text-book commission.

"Sec. 17. When any publisher of school text-books shall file with the state superintendent the samples and lists provided for in section 4 of this act, said publisher at the same time shall be required to file a sworn statement that he has no understanding or agreement of any kind with any other publisher, or interest in the business of any other publisher, with the effect, design or intent to control the prices on such books or to restrict competition in the adoption or sale thereof.

"Sec. 18. Before being licensed to sell school text-books in this state, the publisher thereof shall file with the state superintendent of public schools a sworn statement, showing the ownership of such publishing house with interest, names and addresses of such owners, and specific-

ally stating whether or not the said publisher, or the owner of any interest or shares in such publishing house, is the owner of any interest or shares in any other publishing house and if so giving the name and address thereof.

"Sec. 19. If at any time any publisher shall enter into any understanding, agreement or combination to control the prices or to restrict competition in the adoption or sale of school books, or if the statements required of said publisher by the two preceding sections shall be untrue in any respect then the attorney-general shall institute and prosecute legal proceedings for the forfeiture of the bond of said publisher and for the revocation of (his) authority to sell school books in this state, and all contracts made by said publisher under this act shall thereupon become null and void at the option of the other parties thereto.

"Sec. 20. Any publisher who shall sell, or offer for sale or adoption in this state, school text-books of any kind without first obtaining license therefor under this act, shall be guilty of a misdemeanor, and, upon conviction shall be fined not less than five hundred dollars, and not more than five thousand dollars.

"Sec. 20a. Any member of any county board of education who shall accept or receive any money, gift, or any property, or favor whatsoever, from any person, firm or corporation selling or offering for sale any text-books, or any agent thereof, or from any person in any way interested in the sale of text-books, shall, upon conviction, be punished by a fine not exceeding one thousand dollars or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

"Sec. 21. All acts or parts of acts in conflict with this act are hereby repealed.

"Sec. 22. There being no law now providing for the selection and adoption of text-books creates an emergency within the meaning of the Constitution; therefore this act shall take effect and be in force from and after its passage."

(Appropriating \$4,000 for expenses, sec. 70a, H. R. No. 34, p. 16, May 13, 1907.)

P. 434, Mar. 19, 1907.

1148. **Montana:** Creating a state text-book commission, for the purpose of adopting and maintaining a uniform series of text-books for the public schools; regulating the price of the same; defining the duties and powers of said commission; and making an appropriation.

Commission to consist of seven members appointed by governor. Adoptions to be made for five years. Prescribing conditions of contracts and agreements. Free text-books.

Chap. 132, Mar. 7, 1907.

1149. **Nevada:** Creating a state text-book commission and authorizing the commission to adopt a uniform series of text-books for the public schools of the State.

Chap. 112, Mar. 22, 1907.

1150. **North Carolina:** Amending sec. 4063, chap. 85, Revisal, 1905, relative to text-book commission.

Providing for the payment of per diem of \$4 per day, not to exceed thirty days, and payment of expenses of members of subcommission.

Sec. 1b, chap. 835, Mar. 9, 1907.

1151. **Oklahoma:** Carrying into effect sec. 6, art. 13, of constitution by creating a text-book commission for the purpose of preparing for use in the common schools of the State a uniform system of text-books, registers, records, and school apparatus; defining the duties of bidders and certain officers and prescribing penalties for violations.

"SECTION 1. There is hereby created a commission to be composed of seven members, to be known as the 'Text-Book Commission,' consisting of the governor and six other persons of recognized ability, residents of this State, a majority of whom shall be experienced educators, who shall be appointed by the governor and approved by the senate, to serve for



a term of five years and until their successors are appointed and qualified, unless sooner removed. Any vacancy occurring upon the commission from any cause shall be filled by appointment by the governor as in the first instance. A majority of said commission shall constitute a quorum for the transaction of all business of the commission. Before transacting any business relating to the duties of the commission, they shall each, in addition to the oath prescribed by the constitution, take an oath before some person authorized to administer same, to faithfully discharge all the duties imposed upon them as members of the Text-Book Commission and that they have no interest, directly or indirectly, in any contract that may be made under this act, and will receive no personal benefit therefrom, that they will examine all books submitted carefully and faithfully, as herein directed and prescribed, and said oath shall be filed in the office of the secretary of state. The secretary of said commission shall keep a correct record of all proceedings, votes and actions of the commission, which said records shall be deposited in the office of the secretary of state, at the time when said commission is not in session. All votes upon any proposition submitted to the commission shall be yea and nay, and recorded in the journal of the day's proceedings. No person shall be appointed to serve on said commission who has been in the employ, directly or indirectly, as traveling salesman, or otherwise, for any publisher of school text-books.

"Sec. 2. The Text-Book Commission shall be called together by the governor, within thirty days after the passage and approval of this act, and said commission is hereby empowered to select and adopt a uniform system or series of school text-books, registers, records, maps, charts, globes, and other school apparatus, for use in all the common schools of Oklahoma, and the series so selected shall include all the studies taught in the common schools of the State up to and including the twelfth grade.

"Provided, that none of said text-books shall contain anything of a partisan or sectarian character. Each bidder presenting books for adoption shall state at what price the books are offered, as basic books, and as supplementary books:

"Provided, that the commission may adopt supplementary readers, but such readers shall not be used to the exclusion of basic readers. The duly constituted authorities in charge of any private school, or other educational institution, desiring to use any of the books selected by said commission in such school shall have the privilege of buying said books at the same price and on the same terms at which they are furnished to the common schools.

"Sec. 3. As soon as practicable, at the time fixed in the notice and in such manner as the commission may deem best, the commission shall advertise for at least thirty days, for sealed bids on proposals from publishers of said text books for furnishing books, registers, records, and apparatus to the common schools of this State as heretofore provided. The bids or proposals shall be for furnishing the books, registers, records, and apparatus for a period of five years, commencing August first, nineteen hundred eight. Each bid shall state specifically and clearly the retail price at which each book, register, record and apparatus shall be furnished. Each bid or proposal shall be accompanied with specimen copies of each and all books offered in said bid, which specimen copies of books shall be sent, by express or mail to the governor, and it shall be required that each bidder deposit with the treasurer of the State of Oklahoma, such sum of money as the commission shall require, not less than five hundred dollars nor more than twenty-five hundred dollars, according to the value of the books, registers, records, and apparatus, each bidder may propose to supply. Such deposit shall be forfeited to the State if such bidder so depositing shall fail to make and execute such contract and bond as provided in this act within such time as the commission may require, which time shall be specified in the notice advertised. Each bid shall be accompanied with a sworn statement, showing the ownership of such publishing house, with the interest, names and addresses of such owners and specially stating whether or not the said publishers or the owners of any interest or share of any such publishing house is the owner of any interest or share of any other publishing house, and if so, give the name and address thereof and further state in said affidavit that no member of the commission is in any manner inter-

ested, directly or indirectly, in such firm or corporation submitting such bid. If the fact shall be disclosed that any member of the commission is so interested, it shall work a disqualification of such member of the commission, and he shall not be permitted to serve on such commission, or if it should further appear or be disclosed that a member of the commission is interested in any book or series of books, or the author or associate author or that any member of the commission is interested in any such book or series of books in any manner, such fact shall likewise work a disqualification of such member and he shall not be permitted to serve on the commission. Each member of the commission, after a called session of the commission, at which any books are adopted shall make out and file with the secretary of state an affidavit that he is not, and has not been, directly or indirectly interested in or related to any publishing house, person, firm or corporation submitting any book, register, record, manuscript, or school apparatus for adoption, or in any book, register, record, manuscript, or school apparatus offered for adoption, nor is he related to any person or agents representing such house, person, or firm or corporation, and that he will not accept any position as agent or representative of any person, firm, or corporation to whom any contract may be awarded by said commission during the term and duration of said contract, and that he is not related to any person, or agents, representing such house, firm or corporation. Any contract entered into under the provisions of this act with any publishers who may hereafter become a party to any combination or trust for the purpose of raising the price of school text books, registers, records or school apparatus used in this State, at the wish of the commission, shall become null and void.

"SEC. 4. All bids shall be sealed and deposited with the chairman of the commission, to be by him delivered to the commission in executive session for the purpose of considering the same. When any person, firm or corporation has been awarded a contract and the contract and bond required has been filed with the commission, it shall make an order on the treasurer of the State, reciting such fact, and thereupon the treasurer shall return the deposit of such bidder, but if any successful bidder shall fail to make the contract and bond as heretofore provided, the treasurer shall place the deposit of such bidder in the state treasury to the credit of the available school fund, and the commission shall re-advertise for other bids to supply such books or school apparatus which said bidders may have failed to supply. All unsuccessful bidders shall have their deposits returned to them as soon as the commission has decided not to accept their bids. All books adopted by the commission shall be printed in English, except such text-books as may be adopted for the teaching of any foreign language. The commission shall stipulate in the contract that where a change shall have been made from the books now in use in this State, the contractor or contractors shall take in exchange the respective books and receive the same in exchange for new books at a price not less than fifty per cent of the contract price. Such exchange period shall not continue longer than one year from the date of contract.

"SEC. 5. The bidder or bidders to whom any contract may have been awarded shall make and execute a good and sufficient bond payable to the State of Oklahoma in the sum of not less than ten thousand dollars to be approved by the governor, such bond to be conditioned that the contractor or contractors shall faithfully perform all conditions of the contract. The contract and bond shall be prepared by the attorney-general and shall be made to conform with all the requirements of this act, and shall be payable in the county where the seat of government of this State is located, which shall be deposited in the office of the secretary of state. The bond shall not be exhausted by a single recovery thereon but may be sued upon from time to time until the full amount thereof is recovered, and the commission may, after twenty days notice, require a new bond to be given, and in the event the contractor or contractors shall fail to furnish such new bond, the contract of the contractor or contractors may, at the option of the commission, be forfeited.

"SEC. 6. It shall be the duty of the commission to meet at the time and the place mentioned in the notice and advertisement and it shall adopt such rules and regulation as may be necessary to the transaction of its business not contrary to the provisions of this act, and shall then

and there open and examine the sealed proposals received, and it shall be the duty of the commission to make a full and complete investigation of all books, registers, records and school apparatus and bids accompanying the same. Each person, company, or corporation submitting bids or proposals shall be permitted to file a written statement as to the merits of any book or books, register, record, or school apparatus offered by such bidder, or they may be permitted to appear in person, or by a duly authorized agent, before said commission, and the party so appearing or representing the claims of any bidder, shall deposit with the commission his proper credentials or authority to represent such bidder. Every person who appears before the commission in advocacy of the adoption or rejection of any book, register, record, manuscript, or any school apparatus shall file an affidavit showing fully in what capacity he appears and whether he is representing as agents or otherwise, any bidder or whether he has received or has a contract to receive pay for his services in appearing before said commission:

"Provided, that no state official of this State shall be allowed to appear as the agent or representative of any text-book company, firm or corporation.

"Sec. 7. The literary merits and historical accuracy of all books shall be the main point to be considered in their adoption, and the books shall be selected after a careful examination and consideration of all the books presented, and books selected shall be those which, in the opinion of the commission, are most acceptable for use in the various schools of the State, quality, mechanical construction, paper, print, price, authorship, and any other relevant matter being given such weight in making its decision as the commission may deem advisable:

"Provided, that books by Oklahoma authors shall have preference, merit and price being equal. The commission shall proceed without delay to adopt, for use in the common schools of this State, text-books in the schools heretofore mentioned, and shall notify publishers to whom contracts are awarded. Each contract shall be duly signed by the publishing house or its authorized officers or agents, and if it is found to be in accordance with the award and all of the provisions of this act, and if the bond herein required is presented and duly approved, the commission shall approve said contract and order it to be signed on behalf of the State by the governor. All contracts shall be made in duplicate and one copy shall remain in the custody of the secretary of state and be copied in full in the minutes of the meeting of the commission in a well bound book, and the other copy to be delivered to the publisher or agent thereof. All the books, registers and records furnished under such contract shall be equal in all respects to the specimen or sample copies furnished with the bids; and it shall be the duty of the state superintendent of public instruction to preserve in his office, as the standard of quality and excellence to be maintained in such books, registers and records, during the continuance of such contract, the specimen or sample copies of all books, registers and records which have been the basis of any contract, together with the original bid and proposal. The contract and exchange price of each book shall be plainly printed on the back of each book, together with the following notice:

"The price marked hereon is fixed by the State, and any deviation therefrom should be reported to the state superintendent of public instruction."

"Sec. 8. The commission shall not, in any case, contract with any publisher of any book or books, registers and records, or any person, firm or corporation, submitting bids for furnishing charts, maps, globes or other school apparatus to be used in the common schools in this State, at a price in excess of the lowest price at which such publisher or bidders furnishes and distributes the same book or books, registers, records or school apparatus under contract with any other state, county or school district in the United States, under like conditions of distribution.

"Sec. 9. The publishers or bidders shall file with each proposal a sworn statement of the lowest price at which each book, chart, map, globe or other apparatus offered is sold anywhere in the United States, under like conditions of distribution. Said publishers or bidders must further agree to reduce the price of any book or apparatus adopted by

the commission, if reductions are made below such contract price anywhere in the United States, so that at no time may any book or apparatus be sold in Oklahoma at a higher price than is received for the same book, register, record or apparatus elsewhere in the United States where like conditions of distribution prevail.

"Sec. 10. Any publisher, person, firm or corporation submitting bids, or agent of such publisher, person, firm or corporation, who shall connive at or seek to procure a change of the series of text-books, registers, records or any school apparatus by the commission before the expiration of the period in which a uniform system of text-books is established in this State, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than twenty-five dollars and not more than one hundred dollars for such offense.

"Sec. 11. It shall be unlawful for any teacher, trustee or school board of any common school in this State to purchase or contract for any chart, map, globe or other school apparatus, unless the same shall have been submitted to the text-book commission of this State at a regular or special session, and by them approved and a maximum price thereof fixed by said commission.

"Sec. 12. Any person who shall sell to any teacher, trustee or school board of any common school of this State, any chart, map, globe or other school apparatus, which have not been approved by the text-book commission of this State, and any person who shall request or endeavor to persuade any such teacher, trustee or school board, or any member thereof, to purchase any chart, map, or globe or other school apparatus, the sale of which is hereby prohibited, shall be deemed guilty of a misdemeanor and liable to a fine of not less than fifty nor more than two hundred dollars.

"Sec. 13. It shall be a part of the terms and conditions of every contract made in pursuance of this act that the State of Oklahoma shall not be liable to any contractor thereunder for any sum whatever, but all such contracts shall receive compensation solely and exclusively from the proceeds of the sales of school books as provided in this act, and it is hereby provided that the State shall have the right to terminate said contract whenever the law is repealed or amended, altered or qualified as to make necessary or expedient that such contract should be revoked, or as to such book or books, registers and records as may be published by or at the cost of the State.

"Provided, further, that the commission shall have the power, by a majority vote, to discontinue the use of unsatisfactory books, registers and records at the end of any school year during the continuance of this contract, and to make another adoption, and all contracts shall contain a stipulation to that effect. The State may, at its election, cancel any contract entered into by virtue of the provisions of this act for fraud or collusion upon the part of either party to the contract or any member of the commission, or any person, firm, corporation or their agents making said bond or contract; and for the cancellation of any such contract, the attorney-general is hereby authorized to bring suit in any court of competent jurisdiction in the State, and in case of the cancellation of any contract as provided in this act, the damages are fixed, at not less than the amount of said bond to be recovered as liquidated damages in the same suit cancelling such said contract. And on account of the difficulty in determining the damage that might accrue by reason of such fraud and cancellation of such contract, the full amount of the bond given by any contractor shall be considered as liquidated damages to be recovered out of said bond by the State at the suit of the attorney-general, and every contract shall contain a clause to this effect.

"Sec. 14. The text-book commission shall have and reserve the right to reject any and all bids or proposals if said commission be of the opinion that any or all bids should, for any reason, be rejected; and in case they fail, from among the bids or proposals submitted, to select any book or books, registers, records and apparatus upon any of the branches of study provided for in this act, they may advertise for sealed bids or proposals under the same terms and conditions as before, and proceed in their investigation in all respects as they did in the first instance and as required by the terms and provisions of this act.



"Sec. 15. The party or parties with whom the contract shall be made shall place their books, registers, records and school apparatus on sale at as many places in each county of the State as the commission may direct for the distribution of the books to the patrons, and the contractor shall be permitted to make arrangements with the merchants or other persons for the handling and distribution of the books. All books shall be sold to the consumer at the retail price fixed by the commission. Upon the failure of any contractor, under the provisions of this act, to furnish the books, registers, records or apparatus as provided in this contract, the county superintendent of public instruction of such county shall immediately report the fact to the attorney-general, and he shall bring suit on account of such failure, in the name of the State of Oklahoma, in any court of competent jurisdiction in the State, and shall recover on the bond given by such contractor for the full value of the books, registers, records and apparatus not furnished as required, and in addition thereto the sum of one hundred dollars, and the amounts so recovered shall be placed to the credit of the available school fund of the State.

"Sec. 16. As soon as the State shall have entered into the contract for furnishing of the books and apparatus for use in the common schools of this State, under the provisions of this act, it shall be the duty of the governor to issue his proclamation of such fact to the people of the State, and immediately thereafter the state superintendent of public instruction shall address a circular letter to the county superintendents, trustees and school boards of the various schools of the State, which circular letter shall contain a list of the books, registers, records and apparatus adopted, with their respective prices, together with such other information as he may deem advisable.

"Sec. 17. If any local agent, dealer, clerk or other person handling or selling the books, registers, records, maps, charts, globes or other apparatus adopted under this act, shall demand or receive for a copy of any of the books, registers, records, or for any chart, map, globe or other apparatus adopted under this act, more than the contract price, he shall be guilty of a misdemeanor, and upon conviction shall, for each offense, be punished by a fine of not less than fifty dollars nor more than five hundred dollars.

"Sec. 18. The trustees and school boards of the various schools of the State using books, registers, records and apparatus adopted by the commission shall hold annual meetings and make an estimate of the number of school text-books, registers, records and apparatus needed in said school for the term next commencing therein, and a report thereof shall be made to the county superintendent of public instruction in said county immediately, and not later than the first day of August next thereafter, and the county superintendent shall, as soon as possible, and not later than the tenth day of August of each year, and oftener, if the necessity of a school requires it, make out his requisition from the report so received, and from any other source, and send it to the state superintendent, when such books are printed by the State or the school book publisher or publishers having contracts under the provisions of this act, stating therein the number of books, registers, records and apparatus of each kind needed for the schools of his county.

"Sec. 19. The books and apparatus adopted by the commission under the provisions of this act, shall be introduced and used as text-books, registers, records and apparatus to the exclusion of all others in the common schools of this State as hereinbefore provided, but nothing in this act shall be construed to prevent or prohibit the patrons of the common schools in the State from procuring books, registers, records and apparatus in the usual way in the event that the State does not publish such books, registers, records, or manufacture such apparatus, in the event that no contracts are made, or in the event that the contractor or contractors fail or refuse to furnish the books, registers, records or apparatus provided for in this act, at the time that said books or apparatus are required for use in the schools.

"Sec. 20. Any school trustee who shall prevent or aid in preventing the use in any common school in this State of the books, registers, records and apparatus, or any of them, as adopted under the provisions of this act, or any teacher in this State who shall wilfully fail or refuse to use



the books, registers, records and apparatus adopted under the provisions of this act, shall be guilty of a misdemeanor, and upon conviction shall be fined any sum not less than twenty-five dollars nor more than fifty dollars for each offense, and each day of such wilful failure or refusal of said teachers or wilful prevention of the use of the books, registers, records or apparatus by said school trustee, shall constitute a separate offense.

"Sec. 21. The commission may, from time to time, make any necessary regulations, not contrary to the provisions of this act, to secure the prompt distribution of the books, registers, records and apparatus herein provided for and for the prompt and faithful execution of all contracts; and it is now expressly provided for that said commission shall maintain its organization during the continuance of the contracts to be entered into during the year nineteen hundred and eight, and after the expiration of same, to reorganize the commission for a period of five years as in the first instance, and enter into such other contracts in pursuance of this act as they may deem for the best interests of the patrons of the common schools of the State: *Provided*, That said commission shall be discontinued at such time when the efficiency for the publication of such books, registers and records provided for in this act, by the State, makes the continuance of said commission unnecessary.

"Sec. 22. If, when the proposals to furnish text-books are submitted to the text-book board, it shall appear that publishers have combined upon prices and that the proposals are unreasonable, said board is hereby empowered, with the approval of the state board of education, to do any and all acts that may be necessary for the purpose of procuring a meritorious uniform system of text-books, registers and records for use in the common schools of Oklahoma. They may, with the approval of the state board of education, offer prizes for manuscripts of books or employ suitable persons to prepare or compile the same, and contract with printing concerns for publication, purchase or hire plates, maps and engravings of copyright matter; contract for or lease copyrights for the purpose of being used in compiling and printing such books, provide for the payment of royalties or for the leasing of plates for printing of the whole or any part of said books. *Provided*, that the entire cost of any book or books so furnished shall not exceed the price of any standard book or books of like character which was proposed to be furnished by publishers.

"Sec. 23. An itemized statement of all necessary expenses of the commission, together with a sworn itemized statement of the necessary expenses of the individual members of the commission, shall be filed with the secretary of state, and the members thereof shall be allowed to receive as their only compensation for their services, the sum of six dollars per day while on duty, and their actual traveling expenses going to and returning from the place of meeting, to be paid by the state treasurer, under the direction and approval of the governor; provided, that no per diem shall be allowed to any member of the commission who shall, at the time of service thereof, be receiving a stated salary from the State; provided further, that the members of said commission shall not draw pay during the year nineteen hundred eight for more than thirty days, nor more than ten days for any following year.

"Sec. 24. It shall be unlawful for any member of the text-book commission to accept as a gift, or at a reduced price, any books, registers, records or school apparatus or anything of value from any person, firm or corporation interested, directly or indirectly, in any bid filed with said commission or in the adoption of any book, register, record or apparatus by said commission, and any person violating this section of this act shall be punished by a fine of not less than one hundred dollars, nor more than five hundred dollars, and by imprisonment in the county jail not less than thirty days.

"Sec. 25. The words 'common schools,' as used in this act, shall be construed to mean all the schools of this State receiving aid from the State out of the common school fund.

"Sec. 26. Any nonresident person or firm or foreign corporation with whom a contract has been entered into under the provisions of this

act, shall designate the secretary of state of Oklahoma as his or their agent on whom citation and other writs and process may be served, in the event that any suit shall be brought against such person, firm or corporation.

"SEC. 27. The sum of twenty-five hundred dollars, or so much thereof as may be necessary, is hereby appropriated for the purpose of carrying into effect the provisions of this act.

"SEC. 28. All acts and parts of acts in conflict with this act be, and the same are hereby repealed.

"SEC. 29. For the preservation of the public peace and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in force from and after its passage and approval."

Chap. 77, H. B. 331, p. 680, May 18, 1908.

1152. **South Dakota:** See enactment No. 100.

1153. **Texas:** Creating a state text-book board and procuring for use in the public free schools of the State for a period of five years, beginning Sept. 1, 1908, a series of uniform text-books, defining the duties of certain officers named, making appropriation therefor, defining certain misdemeanors, providing for a bond for the faithful performance of contracts and to cover liquidated damages for fraud or collusion, and authorizing the attorney-general to bring suit therefor, and providing penalties for violation of the provisions of this act.

Chap. 9, May 14, 1907 (sp. sess.).

1154. **Wisconsin:** Creating secs. 553m-1 to 553m-25 inclusive, Statutes, 1898, providing for county uniformity in school text-books and for a county board of education in each county.

Providing for submission of question of county uniformity to annual county school-board convention (chap. 105, Laws, 1905), vote of majority of districts to determine. Providing for the election, qualifications of members, organization, and proceedings of a county board of education to select and adopt uniform series of text-books. Prohibiting changes of any book within five years of time of adoption. Authorizing adoption of supplementary books.

Exempting cities and districts maintaining a free high school and all state graded schools of the first class from using prescribed books unless so desired. Exempting districts having adopted the free text-book system from using prescribed books until some change is made in books used therein.

Chap. 561, July 10, 1907.

#### L. SUBJECT-MATTER OF INSTRUCTION.

It is difficult to classify with great accuracy the legislation affecting in a definite way the content of the instruction given in the public schools. This is especially true with those enactments having to do with the establishment of elementary or secondary technical and industrial courses or schools. Of the enactments of a general nature the following may be mentioned as deserving of especial attention: California (1155), relative to postgraduate courses of study in grammar schools; Idaho (1156), providing for uniform eighth-grade examinations; Utah (1160), creating a "state school committee;" and Vermont (1162), providing for instruction in special subjects.

Of the remaining enactments in the group, the following may be specially mentioned: Rhode Island (1169), Utah (1173), Massachusetts (1170), Arkansas (1176), California (1177), Texas (1178), Virginia (1180), and Wisconsin (1181).

(a) General.

1155\*. **California:** Adding sec. 1779 to Political Code, 1906, relative to grammar grade postgraduate course of study in public schools.

Permitting the establishment of such courses of study requiring one or more years for completion.

Chap. 67, Mar. 1, 1907.

1156\*. **Idaho:** Providing for a final, uniform, eighth-grade examination which shall admit pupils to the first year of the high school, and prescribing rules and regulations.

Questions to be prepared under the direction of the state superintendent of public instruction. Defining conditions of passing. Eighth-grade diploma necessary for entrance to high school.

S. B. No. 120, p. 108, Mar. 12, 1907.

1157. **Illinois:** Amending sec. 3, p. 379, Acts, 1905, providing normal-school scholarships for graduates of the eighth grade.

Changing time of holding annual examination from second Saturday of May to any Saturday between the 1st of March and the 15th of May.

H. B. 332, p. 523, Apr. 19, 1907.

1158. **Montana:** Creating a county board of educational examiners, providing for their appointment, fixing their compensation, and prescribing their qualifications and duties.

Board to conduct also eighth-grade examinations upon request of state board of education.

Chap. 47, Feb. 27, 1907.

1159. **Utah:** See enactment No. 168.

1160. **Utah:** Creating a state school committee, defining its powers and duties, providing for the preparation of a state course of study, and further providing for the payment of the necessary expenses of the county superintendents on the committee.

Constituting the state superintendent of public instruction, the principal of the state normal school, the principal of the state normal training school, and two county superintendents a committee to prescribe a course of study for the schools of the State not included in county school districts of the first class or in cities of the first and second classes.

Chap. 57, Mar. 14, 1907.

1161. **Vermont:** Amending sec. 1, act No. 30, Acts, 1894 (sec. 607, chap. 32, Public Statutes, 1894), relative to courses of study in the elementary schools.

Extending authority of the superintendent of education to prepare when necessary (formerly annually) a course of study for elementary (formerly ungraded) schools. Adding provision concerning distribution.

Sec. 4, Act No. 43, Dec. 18, 1906. (Apr. 1, 1907.)

1162. **Vermont:** Amending sec. 680, chap. 36, Public Statutes, 1894, relative to special branches in the public schools. Adding provision for instruction in physical culture, drawing, and the industrial arts and sciences.

Act No. 49, Nov. 23, 1906.

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1163. **Wisconsin:** Amending sec. 447, Statutes, 1898, as amended by chap. 158, Laws, 1906, relative to branches taught in public schools.

Providing that the teaching of a foreign language shall not at any time prevent the offering of the regular common school branches in English. Requiring every pupil to devote at least half the school day to the study of English branches.

Chap. 200, June 12, 1907.

(b) History, Civics, and Patriotism.

[See enactments under subdivision (j): "Days for Special Observance."]

1164. **Delaware:** Requiring that the constitution of the State be taught and explained to all public school pupils.

Chap. 124, Apr. 9, 1907.

1165. **Kansas:** Providing for the display of the United States flag on school-houses, and encouraging patriotic exercises in schools.

Providing also that state superintendent shall prepare form of flag salute and programme of exercises for the observance of special days—Lincoln's Birthday, Washington's Birthday, Memorial Day (May 30), and Flag Day (June 14).

Chap. 319, Mar. 6, 1907. Unsigned by the governor.

1166. **Maine:** Encouraging the compiling and teaching of local history and local geography in the public schools.

Providing for the appointment of a state historian, who shall compile historical data of the State and encourage the teaching of the same in the public schools; who shall also encourage the compiling of town histories, combined with local geography, suitable for use in the grammar and high schools, and approve the same for publication. Constituting the superintending school committee, the superintendent of schools, and a citizen of the town selected by them a board to compile and to secure the publication of the history and local geography of the town. Providing for expenses of state historian (annual maximum, \$500) and for state aid to towns (maximum, \$150).

Chap. 88, Mar. 20, 1907.

1167. **New Jersey:** Encouraging the celebration of Flag Day in the public schools.

Requiring appropriate exercises on June 14 of each year as the day of the adoption of the American flag by the Continental Congress.

Chap. 84, Apr. 17, 1907.

1168. **North Carolina:** Amending sec. 4087, chap. 85, Revisal, 1905, relative to branches to be taught in the public schools.

Removing ambiguity of phrase concerning the teaching of the history and constitution of North Carolina and the history and Constitution of the United States. Providing for the teaching of the elements of civil government and for text-book instruction in physiology and hygiene.

Sec. 1c, chap. 835, Mar. 9, 1907.

1169. **Rhode Island:** Providing for the observance of May 4 as Rhode Island Independence Day.

May 4 of each year to be observed with patriotic exercises in all public schools. Commissioner of public schools to prepare and distribute programme.

Chap. 1591, May 28, 1908.

(c) Physical Education.

[See under Section M, subdivision d: "Vacation Schools and Playgrounds."]

## (d) Physiology; Hygiene; Alcohol; Narcotics.

1170. **Massachusetts:** See enactment No. 1110.

1171. **North Carolina:** See enactment No. 1168.

1172. **North Carolina:** Providing for scientific temperance instruction in the public schools.

Prescribing character and amount of such instruction, and providing for its enforcement in the schools of the State.

Chap. 957, Mar. 11, 1907.

1173\*. **Utah:** Providing for the establishment of a course of instruction in the public schools on the subjects of sanitation and the cause and prevention of disease.

"SECTION 1. *Sanitation and the cause and prevention of disease shall be taught.*—That there shall be established in the Normal Schools of the state, and in the public schools, beginning with the eighth grade, a course of instruction upon the subjects of sanitation, and the cause and prevention of disease.

"It shall be the duty of the state board of education and state board of health, acting conjointly, to prepare a course of study to carry out the provisions of this act."

Chap. 96, Mar. 14, 1907.

## (e) Moral and Ethical Education.

D 1174. **Kentucky (1905):** A public school opened with prayer and the reading without comment of passages from King James's translation of the Bible, during which pupils are not required to attend, is not "a place of worship," nor are its teachers "ministers of religion," within the meaning of constitution, sec. 5, providing that no person shall be compelled to attend any place of worship or contribute to the support of a minister of religion.—*Hackett v. Brooksville Graded School District*, 87 S. W., 702.

The King James translation of the Bible, or any edition of the Bible is not a sectarian book, and the reading thereof without comment in the public schools does not constitute sectarian instruction, within the meaning of Ky. Stat., 1903, sec. 4368, providing that no books of a sectarian character shall be used in any common school, nor shall any sectarian doctrine be taught therein.—*Ibid.*

D 1175. **Texas (1908):** "The holding of certain exercises in the public schools held not to convert the schools into a place of worship, in violation of constitution, art. 1, sec. 6.—*Church v. Bullock*, 109 S. W., 115.

Notwithstanding constitution, art. 1, secs. 6, 7, and art. 7, sec. 5, one or more individuals held not entitled to have the courts deny the people the privilege of having their children instructed in the public schools in the moral truths of the Bible.—*Ibid.*

## (f) Humane Treatment of Animals.

## (g) Music.

## (h) Drawing.

## (i) Elementary Technical, Manual, and Industrial Training.

[See also Section O: "Technical and Industrial Education—Elementary and Secondary."]

\* See p. 316 for complete text of decision.



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1176. **Arkansas:** Authorizing the teaching of elementary agriculture in the public schools.

Act No. 455, May 29, 1907.

1177. **California:** Amending sec. 1605, Political Code, 1906, relative to course of study in primary and grammar schools.

Nature study to be taught with special reference to agriculture. Manual training and domestic science added and made optional.

Chap. 52, Mar. 1, 1907.

1178. **Texas:** Amending sec. 100, chap. 124, Acts, 1905, relative to subjects to be taught in the public schools.

Providing for the teaching of elementary agriculture, excepting in independent school districts containing a scholastic population of three hundred and more.

Chap. 169, Apr. 24, 1907.

1179. **Utah:** Urging Congress to adopt the Burkett-Pollard bill (providing for appropriations to the several States for advancing instruction in elementary agriculture and manual training).

\*Sen. Jt. Mem. No. 2, p. 275, Mar. 14, 1907.

1180. **Virginia:** See enactment No. 107.

1181. **Wisconsin:** Amending sec. 496b, Statutes, 1898, and sec. 496c, Statutes, 1898, as amended by chap. 273, Laws, 1899, and creating sec. 496c-1, relative to manual training and state aid therefor in free high schools.

Authorizing extension of manual training so as to include the three upper grades below the high school. Authorizing assistance of inspectors of graded schools in the supervision of manual training departments. Annual state aid to equal one-half the cost of instruction: not to exceed \$350 if in high school and three upper grades, or \$250 if in high school alone (formerly \$250 to high school). Authorizing two or more districts to unite in engaging manual training teachers and providing aid therefor. Increasing maximum limit of annual state aid from \$5,000 to \$25,000.

Chap. 503, July 9, 1907.

**(j) Days for Special Observances.**

[See enactments under subdivision (b) "History, Civics, and Patriotism;" also under Section H, subdivision d: "School Holidays."]

1182. **Montana:** Amending secs. 1900 and 2290, Political Code, 1895, relative to Arbor Day.

Changing Arbor Day from second Tuesday of May to third Tuesday of April.

Chap. 11, Feb. 13, 1907.

1183. **New Hampshire:** Making May 13, 1907, a legal holiday.

Making May 13, 1907, the three hundredth anniversary of the landing of the first English colonists at Jamestown, Virginia, a legal holiday.

Chap. 66, Mar. 20, 1907.

1184. **New Jersey:** Relative to Arbor Day.

Designating first Friday in May. Exercises in schools.

Chap. 187, Apr. 13, 1908.

**(k) Other Special Subjects.**

1185. **Arizona:** Providing for instruction in commercial branches in the public schools of Arizona.

Authorizing the introduction of commercial subjects by boards of school trustees, and providing for the employment and licensing of teachers.

Chap. 58, Mar. 21, 1907.

## M. SPECIAL TYPES OF SCHOOL.

The legislation relating to special types of school reveals a continued tendency to extend greatly the activities of public education. While some of the enactments here included are not applicable strictly to schools, they are brought forward in evidence of this widening tendency of public education. This is particularly true of those of New Jersey (1186), Ohio (1187), Massachusetts (1197a, 1197b), Oregon (1199), and Wisconsin (1200).

The special schools for adults established in Pennsylvania (1188), and the special evening schools established in New Jersey (1196), are of peculiarly large contemporary interest.

The establishment of kindergartens by Kansas (1191) and by Texas (1192) are features of the widening scope of the public-school system. In connection with these two enactments, the decision of the California supreme court (D 1190) is pertinent.

The Massachusetts act (1197) enlarging the powers of the school committee of the city of Boston with reference to physical education stands out as a prominent example of the progressive and far-reaching legislation affecting the schools of the large cities.

The several enactments in Wisconsin (1201-1204) are deserving of special mention in connection with this general topic of the extension of the activities of the school as a social institution.

## (a) General.

1186. **New Jersey:** Amending chap. 68, Laws, 1904, as supplemented by chap. 106, Laws, 1905, authorizing cities of the first class to provide annual excursions for children of the same.

Increasing authorized limit of annual appropriation from \$5,000 to \$10,000.

Chap. 130, Apr. 9, 1908.

1187. **Ohio:** Repealing, and reenacting with amendments, sec. 4007, Revised Statutes (1905), relative to elementary schools.

Authorizing city school districts to establish and maintain normal schools, summer or vacation schools, school gardening, and playgrounds.

H. B. 887, p. 85, Apr. 9, 1908.

1188. **Pennsylvania:** Establishing schools for adults, including foreigners, and providing for instruction, and employment of teachers for same.

"SECTION 1. *Be it enacted, etc.,* That whenever an application shall be made to the school-directors of any school district of this Commonwealth, requesting the said board to provide means for the instruction of any colony, camp, or settlement of adults, including foreigners, who may reside temporarily or permanently within the boundaries of said school district, it shall be the duty of said board to arrange a suitable and convenient place wherein any such persons desiring to attend may be instructed in the several branches now taught in the common schools of this Commonwealth."

"Sec. 2. The application or petition shall be signed by at least twenty persons of said school district, who may either be taxable residents of said district, or aliens desiring such tuition: *Provided*, That any alien, so signing, must accompany his request by the statement that he desires to avail himself of the said instruction.

"Sec. 3. The said school may be discontinued, at any time, at the discretion of the said school board, whenever the average daily attendance for any month is less than fifteen.

"Sec. 4. It shall be in the discretion of the school board to use any one or more of the schoolhouses established for ordinary and usual school purposes, or to erect or provide such suitable building or buildings, portable or permanent, as may be necessary.

"Sec. 5. That, upon receipt of such application or petition, the school board shall at once proceed to provide a suitable location for such school, hire the necessary teachers, and make all needful expense to open and continue said school: *Provided*, That any two or more school districts may unite in the establishment, support, and maintenance of said schools: *Provided, however*, That the establishing and maintaining of such schools shall be optional with the school boards of the several districts, except such years as a State appropriation is made for this purpose.

"Sec. 6. The school board may prescribe the hours at which the schoolhouse may be open for instruction, which shall be between the hours of nine o'clock in the forenoon and nine o'clock in the evening.

"Sec. 7. The instruction in said school shall be in the English language, except when necessary to translate the same into the original language of the scholars: *Provided*, That no sectarian instruction shall be allowed."

Act No. 60, Apr. 15, 1907.

1189. **Virginia**: Establishing a public free school on the grounds of the prison association of Virginia at Laurel, Henrico County, making an appropriation for the erection and equipment of the schoolhouse, and providing for the conduct and maintenance of same.

Chap. 404, Mar. 16, 1908.

(b) Kindergartens.

- D 1190. **California** (1905): Pol. Code, secs. 1617, 1662, 1663, which recognize and make provision for the establishment of kindergartens in cities and towns, do not, when construed so as not to entitle kindergartens to participate in the state school fund, conflict with constitution, art. 9, sec. 5, requiring the legislature to provide a system of common schools by which a free school shall be kept up and supported in each district, and sec. 6 of the same article, requiring the state school fund to be applied exclusively to the support of primary and grammar schools.—Los Angeles County v. Kirk, 83 P., 250.

1191. **Kansas**: Empowering school boards to establish and maintain free kindergartens for the instruction of children between 4 and 6 years of age.

Nothing in the act to be construed to change law relating to the taking of the census of the school population or the apportionment of state and county school funds. Cost of establishing and maintaining to be paid from school fund of districts. Prescribing qualifications of teachers.

Chap. 325, Mar. 1, 1907.

1192. **Texas**: Empowering the trustees of any school district to establish and maintain free kindergartens for the training of children between 4 and 7 years of age and to provide for trained teachers for same.

Providing that such establishment shall not affect laws governing school census or apportionment of school funds. Support by special tax. Providing for kindergarten teachers' certificates.

Chap. 149, Apr. 20, 1907.

See p. 310 for complete text of decision.

## (c) Evening Schools.

1193. California: See enactment No. 4.

1194. California (1907): Constitution, art. 9, sec. 6, held not to prevent the maintenance of evening high schools as a part of the public school system.—Board of Education of City and County of San Francisco v. Hyatt, 93 P., 117.

1195. Georgia: Amending the charter of the city of Macon so as to authorize and direct the mayor and council to appropriate certain fixed sums of money for the support of a night school to be kept at one or both of the Macon public libraries.

Act No. 100, p. 786, Aug. 17, 1907.

1196. New Jersey: Providing for the establishment of evening schools for foreign-born residents.

"1. The board of education of any school district may establish and maintain a public evening school or evening schools for the instruction of foreign-born residents of said district over fourteen years of age in the English language and in the form of government and the laws of this State and of the United States. Every teacher employed in such a school shall hold a special teacher's certificate, valid as a license to teach in such schools. The state board of education shall prescribe rules for the proper control and management of such schools, for the inspection thereof, for the granting of certificates to teach therein, and for carrying into effect the purposes of this act. The course of study in each of such schools and any changes therein shall be submitted to and shall be approved by the state board of education.

"2. Whenever in any school district there shall have been raised by special appropriation or special tax, or by subscription, or both, such sum as, in the judgment of the state board of education, shall be sufficient for the maintenance in such district of an evening school or schools as aforesaid, there shall be paid for such purpose to the custodian of the school moneys of said district, on the order of the state superintendent of public instruction, an amount equal to that raised therein as aforesaid, which amount shall be paid by the state treasurer on the warrant of the state comptroller: *Provided*, said order shall not be issued until the course of study in such school or schools or any changes therein shall have been approved by the state board of education. The moneys appropriated by the State as aforesaid to any school district shall not exceed in any year the sum of five thousand dollars. The custodian of the school moneys of the school district shall be the legal custodian of any and all funds appropriated, raised or subscribed for the maintenance of such evening schools. He shall keep a separate and distinct account thereof, and shall disburse said moneys on orders signed by the president and district clerk or secretary of the board of education.

"3. The board of education of any school district receiving an appropriation from the State for the purpose mentioned in this act shall annually, on or before the first day of August, make a special report to the state superintendent of public instruction in the manner and form prescribed by him.

"4. The state board of education may from time to time appoint suitable persons to assist in carrying out the provisions of this act and to encourage the establishment of such evening schools. The persons so appointed shall receive no compensation for their services, but shall be paid the necessary expenses incurred by them under the provisions of this act.

"5. The expenses incurred in carrying out the provisions of this act shall be paid by the state treasurer on the warrant of the state comptroller, but no expense shall be incurred nor payment made for any of the purposes named in this act until an appropriation therefor shall have been made in a regular appropriation bill.

"6. This act shall take effect immediately."

Chap. 36, Apr. 11, 1907.

• See p. 806 for complete text of decision.

(d) Vacation Schools and Playgrounds.

1197. **Maryland:** Authorizing contract between the city of Baltimore and the Children's Playground Association of Baltimore for the maintenance of playgrounds in said city.

Chap. 511, p. 587, Apr. 8, 1908.

- 1197a. **Maryland:** Adding sec. 93A to art. 4, Code of Public Local Laws, 1904, authorizing the board of park commissioners of Baltimore to establish athletic fields and playgrounds for the use of the students of the public schools of the city.

Chap. 106, p. 594, Mar. 19, 1908.

- 1197b. **Massachusetts:** Enlarging the powers of the school committee of the city of Boston in respect to physical education.

"Sec. 1. The school committee of the city of Boston, within the limit of the appropriations for such purposes made by it as hereinafter authorized or under existing authority of law, shall, during the summer vacation and such other part of the year as it may deem advisable, organize and conduct physical training and exercises, athletics, sports, games, and play, shall provide proper apparatus, equipment and facilities for the same in the buildings, yards and playgrounds under the control of said committee, or upon any other land which it may have the right to use for this purpose.

"Sec. 2. The said committee shall use for the purpose aforesaid such of the playgrounds, gymnasia or buildings under the control of the park commission of said city as the school committee may deem suitable therefor, such use to be subject however to such reasonable regulations and conditions as the park commission may prescribe: *Provided*, also, that such use shall not extend to any playground, gymnasium or building under the control of the park commission which said commission shall by vote approved by the mayor declare to be unsuitable for such use.

"Sec. 3. Appropriations for the above named purposes shall be made by the school committee in the same manner in which it makes appropriations for the support of the public schools, and the total amount of the appropriations which said committee is authorized by law to make is hereby increased for the current financial year of the city by two cents upon each one thousand dollars of the valuation on which the appropriations of the council are based, and by two cents additional, or four cents in all, for each subsequent year; but the amount of said increase shall be appropriated solely for the purposes mentioned in this act."

Chap. 295, Apr. 13, 1907.

- 1197c. **Massachusetts:** Authorizing the board of park commissioners of the city of Lowell to establish and maintain parks and playgrounds.

Chap. 148, Feb. 27, 1908.

- 1197d. **Massachusetts:** Providing for public playgrounds in certain cities and towns.

Adoptive by cities of more than 10,000. At least one public playground to be maintained after July 1, 1910.

Chap. 513, May 12, 1908.

1198. **New Jersey:** Amending the title, and secs. 2, 3, 4, 5, and 6, chap. 117, Laws, 1907, relative to public playgrounds in cities.

Title to read "An act concerning playgrounds and recreation places in cities of this State, and providing for the establishment, equipment, control, use and regulation thereof."

Amending so to read throughout "playgrounds and recreation places" (formerly, "playgrounds and recreation places for children"); authorizing the use of playgrounds for exhibitions, etc.; admission free. Other minor amendments.

Chap. 108, Apr. 7, 1908.



1190. **Oregon:** Creating a public playgrounds board for the city of Portland.

Authorizing said board to acquire by purchase, gift, or condemnation, lands for public playgrounds and gymnasium, and to equip, maintain, and manage the same, and to provide rules and regulations for the management thereof.

"SECTION 1. That there be and is hereby created a board of five persons to be known as the public playground board, whose duty it shall be to provide, equip, and maintain public playgrounds and gymnasiums for the use of children within the city of Portland, Multnomah County, Oregon, as hereinafter provided.

"SEC. 2. Such public playgrounds board shall consist of the mayor of the city of Portland, and the judge of the juvenile court of Multnomah County, Oregon, the superintendent of the public schools of school district No. 1, Multnomah County, Oregon, the president of the Multnomah Amateur Athletic Club, and the librarian of the public library of the city of Portland, Oregon, and their successors in their respective offices.

"SEC. 3. Said public playgrounds board shall organize at a meeting thereof, to be called by the mayor of the city of Portland, not more than sixty days after the date on which this law shall take effect and elect a chairman from among their number, and a secretary, who need not be a member of the board. None of said board shall receive any compensation for their services as such. Regular meetings of said board shall be held monthly at such times as may be prescribed by the board, and special meetings may be held upon call of the chairman or of three members of the board, and at all such meetings three members of said board shall constitute a quorum.

"SEC. 4. The secretary of said board shall keep an accurate record of all the proceedings of said board, including all rules and regulations adopted for the government or use of the playgrounds or gymnasium, and shall perform such other duties as may be prescribed by the said board. He shall receive in full compensation for all his services such salary as may be determined by the board, not exceeding the sum of \$100 per month.

"SEC. 5. The treasurer of the city of Portland shall be treasurer of the board and shall keep an accurate account of all moneys received and paid out on account of said board apart from all other accounts, and shall pay out no moneys on account of such board, except upon a warrant drawn upon him by the chairman or acting chairman, countersigned by the secretary or acting secretary of the said board.

"SEC. 6. Said public playgrounds board at any regular meeting thereof shall have power to assess a tax, not exceeding one-quarter of one mill on the dollar in any one year during the first five years after this act takes effect, and, thereafter, one-eighth of one mill on the dollar during any one year upon the taxable property of the city of Portland, which tax shall be collected like other city taxes, and when so collected shall be exclusively under the control of said public playgrounds board, and shall be exclusively used for public playgrounds and gymnasium purposes, according to the judgment of said board, and said board shall have full and exclusive control of all public playgrounds and gymnasiums within the city of Portland, including all those parts of the public parks or grounds of said city which had been or may hereafter be set aside for playgrounds or gymnasiums, and shall have power to lay out, improve, and equip such public playgrounds and gymnasiums, to appoint all necessary employees, including watchmen or keepers, who shall have the power and authority of police officers, and fix the compensation of all such employees, and shall disburse all moneys appropriated, received, or collected for the improvement or use of said playgrounds and gymnasiums, and generally shall have power to do all acts needful or proper for the protection, care or improvement of said playgrounds and gymnasiums, and to make all necessary rules or regulations for the use or government thereof, and for breaches of such rules and regulations to affix penalties thereto, not exceeding \$20 for any one offense, to be collected as other fines and penalties are collected in the said city of Portland, Oregon.

"SEC. 7. The said public playgrounds board is hereby empowered to acquire title by purchase, gift, devise, and condemnation or otherwise to any land it may deem desirable for public playgrounds or gymnasiums,

the title thereto to be taken in the name of the city of Portland, Multnomah County, Oregon, and to pay for the same from the tax collected as herein provided, or from any other funds given or received for said purpose, and the park board of the city of Portland shall have authority to turn over to the said public playgrounds board such parts of the parks and other grounds belonging to the city of Portland and within the control of said park board as shall be suitable and desirable for public playgrounds and gymnasia, and when so designated and turned over to said public playgrounds board the same shall be under the jurisdiction of said public playgrounds board as other property it might acquire for said purpose. Said public playgrounds board shall have power and authority to sell any lands or other property acquired for playgrounds or gymnasium purposes whenever in the judgment of said board such land or property shall have become undesirable for such purposes, and all money received on such sale shall be turned into and become part of said playgrounds fund. It shall be the duty of the water board of the city of Portland to furnish whatever water may be necessary for drinking fountains, water closets, sprinkling or other legitimate purposes for the playgrounds and gymnasia which may be established under this act, free of charge.

"Sec. 8. If the said public playgrounds board desires to acquire any land for use in accordance with this act and cannot agree with the owners as to the amount to be paid therefor, said public playgrounds board may proceed in the circuit court of Multnomah County, Oregon, as provided in chapter 2, title 41, of Bellinger and Cotton's compilation of the laws of Oregon, for the appropriation of such land for public playgrounds and gymnasium purposes.

"Sec. 9. No land shall be purchased unless authorized at a regular meeting of said public playgrounds board and concurred in by at least three members of said board. It shall be a crime for any member of said board to be interested in any contract to which the board of which he is a member shall be a party or in which it is interested, and such crime shall be prosecuted and punished as a misdemeanor.

"Filed in the office of the secretary of state, Feb. 25, 1907."

Chap. 159, Feb. 25, 1907.

1200. Wisconsin: Amending secs. 1, 3, and 4, chap. 181, Laws, 1899, and making the same secs. 926-17, 926-19, and 926-20, respectively, of the statutes, and creating sec. 776n, providing for the creation of park districts in cities of the third and fourth classes and in towns, and providing for levying and collecting a district tax to procure lands for parks and playgrounds, and to improve and maintain parks and playgrounds therein.

Chap. 585, July 12, 1907.

#### (c) University Extension; Public Lectures.

1201. Wisconsin: Amending secs. 1 and 2, chap. 336, Laws, 1901, as amended by secs. 1 and 2, chap. 125, Laws, 1905 (creating secs. 515a and 515b, Statutes, 1898), relative to the use of public schools and libraries for public lectures.

Providing for lectures (formerly, evening lectures). The further education of adults to be cared for in particular. Empowering boards to delegate management and control of lectures.

Chap. 75, May 3, 1907.

1202. Wisconsin: Amending sec. 435, Statutes, 1898, relative to powers and duties of school district boards and the care of school property.

Authorizing use of school buildings for lectures, public entertainments, etc., under the auspices of the school authorities for the benefit of the schools. Permitting admission fees.

Chap. 270, June 19, 1907.

1203. **Wisconsin:** Creating sec. 1404j of the statutes, relating to university extension.  
Regents may carry on extension and correspondence teaching; \$20,000 annually.  
Chap. 413, June 26, 1907.
1204. **Wisconsin:** Amending sec. 933 of the statutes, as amended, relating to the use of public libraries.  
Free library may employ lecturers; cooperation with University of Wisconsin and free library commission to encourage wider use of educational books.  
Chap. 307, June 21, 1907.

## (f) Farmers' Institutes, etc.

1205. **Alabama:** Appropriating annually \$4,000 for the purpose of holding farmers' institutes, conducting experiments, gathering statistics, etc., for the betterment of the agricultural interests of the state.  
Act No. 767, p. 751, Aug. 9, 1907.
1206. **California:** Authorizing the regents of the University of California to hold farmers' institutes.  
Making appropriation of \$1,250 for the biennium 1907 and 1908.  
Chap. 136, Mar. 8, 1907.
1207. **Colorado:** Making a special appropriation of \$10,000 for 1907 and 1908 for farmers' institutes and agricultural extension work by the state board of agriculture and the State Agricultural College.  
Sec. 4, chap. 76, Apr. 15, 1907.
1208. **Indiana:** Supplementing chap. 134, Laws, 1889 (secs. 2809-2811, Burns's Annotated Statutes, 1901), relative to the encouragement of farmers' institutes.  
Authorizing additional annual expenditure of not to exceed \$100 for each county institute. Providing for recognition of woman's auxiliary. Penalty for false reports.  
Chap. 117, Mar. 8, 1907.
1209. **Louisiana:** Authorizing the commissioner of agriculture and immigration to employ a farmers' institute conductor, providing for payment of his salary, his expenses, and the expenses incurred in conducting said farmers' institutes, and for holding institutes for the instruction of the citizens of the state in the various branches of agriculture.  
Act No. 162, July 2, 1908.
1210. **Oklahoma:** See enactment No. 1436.
1211. **Wisconsin:** Amending sec. 486c, Statutes, 1898, relative to the method of placing farmers' institute bulletins in the public schools.  
To be distributed by superintendent of agricultural institutes directly to town clerks (formerly, through state superintendent).  
Chap. 66, Apr. 30, 1907.
1212. **Wyoming:** Authorizing the several boards of county commissioners to appropriate annually \$100 to defray expenses of holding farmers' institutes under the supervision and with the cooperation of the University of Wyoming.  
Chap. 77, Feb. 20, 1907.

## (g) Private and Endowed Schools.

**N. SECONDARY EDUCATION: HIGH SCHOOLS AND ACADEMIES.**

The volume of legislation and judicial decisions upon the question of high schools would seem to indicate that this school was occupying a larger and larger place within the scheme of public education. Aside from the question of direct state aid, the attitude of the various States toward the development of secondary education is well illustrated by the following: Alabama (1215), providing for the establishment of county high schools; California (1220), permitting the establishment of postgraduate courses of study in high schools; California (D1224), relative to the status of evening high schools; Illinois (1227), providing for high-school privileges for all graduates of the eighth grade; Indiana (1230), relative to the classification of high schools; Kansas (1233-1235), relative to county high schools; Montana (1245), relative to the status of the county high school; Nebraska (1246), providing free public high school education for all the youth of the State; Nebraska (1247), providing for the establishment of county high schools; North Carolina (1255), providing for the establishment of county high schools; South Carolina (1261), providing for the establishment of county high schools. Throughout this group of legislation and judicial interpretation it is easy to detect the growing importance in popular favor of the county, township, and joint high schools.

1213. **Alabama:** Providing for county high school for Dale County.

Providing for annual state appropriation of \$5,000; for board of trustees, and duties and powers thereof.

Act No. 703, p. 641, Aug. 9, 1907.

1214. **Alabama:** Providing for state appropriation to high school at Plantersville.

Appropriation, \$4,000. Constitution of board of trustees.

Act No. 705, p. 642, Aug. 9, 1907.

1215. **Alabama:** Providing for the establishment of high schools in the counties of the State and making appropriations therefor.

Creating a commission composed of the governor, auditor, and superintendent of education for location of such high schools. Providing for annual state appropriation of \$2,000 for each school. County to provide site and building. Provisions regarding board of trustees, qualifications of teachers, eligibility of students, course of study.

Act effective, providing appropriations can be made from treasury.

Act No. 757, p. 728, Aug. 7, 1907. (Secs. 1861-1868, Code, 1907.)

1216. **California:** See enactment No. 4.

1217. **California:** See enactment No. 1155.

1218. **California:** Amending sec. 1000, Political Code, 1900, relative to the establishment and maintenance of high schools.

High school districts may be maintained with one or more high schools in the manner provided for by secs. 1670 and 1671, Political Code.

Chap. 14, Feb. 15, 1907.

1220. **California:** Adding new section to the Political Code, to be numbered 1681, relative to postgraduate courses of study in high schools.

"1681. The board of trustees of any city, district, union, joint union, or county high school may prescribe postgraduate courses of study for the graduates of such high school, or other high schools, which courses of study shall approximate the studies prescribed in the first two years of university courses. The board of trustees of any city, district, union, joint union, or county high school wherein the postgraduate courses of studies are taught may charge tuition for pupils living without the boundaries of the district wherein such courses are taught."

Chap. 60, Mar. 1, 1907.

1221. **California:** Adding sec. 1671a to Political Code, 1906, relative to issuance of bonds for support of county high schools.

Providing for the submission to electors of the county of the question of issuance of bonds for county high-school purposes.

Chap. 197, Mar. 12, 1907.

1222. **California:** Amending sec. 1670, Political Code, 1905, relative to establishing and maintaining high schools.

Providing for the establishment and maintenance of high-school districts (formerly high schools) in any city, incorporated town constituting one or more common school districts (formerly incorporated town), or any school district having a school population of 200 (formerly 300) or more.

Decreasing powers of county superintendents relative thereto.

Chap. 519, Mar. 23, 1907.

- D 1223. **California (1906):** Pol. Code, sec. 1674, regulating the government of high schools, are not to be controlled by provisions of the Code applicable to common schools.—*Bancroft v. Randall*, 87 P., 805.

- D 1224. **California (1907):** A high school being a part of the public school system, as provided by constitution, art. 9, sec. 6, such a school established by the board of education of San Francisco under Pol. Code, sec. 1616, and Stat. 1871-72, p. 846, chap. 576, if otherwise qualified, was entitled to share in the state high school fund, under act March 6, 1905, p. 59, chap. 65, sec. 5, though not established pursuant to an election under Pol. Code, sec. 1670.—*Board of Education of City & County of San Francisco v. Hyatt*, 93 P., 117.

A high school having been organized in October, 1897, any defects in its organization were cured by Stat., 1901, p. 290, chap. 140, and by Acts, 1905, amending Pol. Code, chap. 1671, so that the school was "organized under the laws of the state," within Stat., 1905, p. 58, chap. 65, sec. 5, providing for the distribution of the high school fund.—*Ibid.*

The fact that the sessions of an evening high school were limited to two hours a day did not prevent it from participating in the benefits conferred on regularly established high schools by act March 6, 1905, p. 58, chap. 65.—*Ibid.*

Under Pol. Code, sec. 1670, subdiv. 12, and Stat., 1905, p. 58, chap. 65, sec. 5, a high school maintaining two courses of study, only one of which complied with university admission requirements, held entitled to state high-school funds only in case it maintained in such course not less than two high-school teachers, and had a daily average attendance of twenty or more pupils.—*Ibid.*

Under Pol. Code, sec. 1670, subdiv. 12, the fact that an evening high school course intended to comply with university requirements extended for five years did not affect school's right to participate in distribution of state high school fund, as prescribed by Stat., 1905, p. 58, chap. 65, sec. 5.—*Ibid.*

\* See p. 309 for complete text of decision.



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1225. **Colorado:** Amending chap. 100, Laws, 1899, relative to the establishment and support of high schools in counties of the fourth and fifth classes.

Extending act so as to include counties of second and third classes. Providing for the issuance of bonds for the purpose of school buildings and sites, or for funding floating debts.

Chap. 219, Apr. 9, 1907.

1226. **Connecticut:** Amending chap. 187, Acts, 1903, concerning tuition of children in high schools and academies in towns and cities other than those in which they reside.

Towns in which a high school is not maintained (previously, high school or academy) to pay whole or part of tuition fees of scholars attending approved school or academy.

Chap. 90, May 27, 1907.

- 1227\*. **Illinois:** Providing free high school privileges for graduates of the eighth grade.

Providing that graduates of the eighth grade in districts where there is no high school shall be allowed to attend any four-year high school in the same or any adjoining county upon payment of tuition not to exceed cost per capita for instruction in said school.

District of residence to pay tuition of children of indigent parents.

Pupils from districts maintaining work of ninth and tenth grades must complete work of these grades.

Ill. B. S57, p. 523, May 25, 1907.

- D 1228. **Illinois (1904):** Under the school law (Laws, 1889, p. 239), providing for organization of school districts and maintenance therein of free schools, which the children of the State may receive a good common school education, and constitution, art. 8, sec. 1, providing that the general assembly shall provide a thorough and efficient system of free schools, whereby all children of the State may receive a good common school education, any school district may establish and maintain a high school department.—*Russell v. High School Board of Education of School Dist. No. 131*, 72 N. E., 441; 212 Ill., 327.

1229. **Idaho:** See enactment No. 1156.

1230. **Indiana:** Relating to high schools.

"SECTION 1. *Be it enacted* \* \* \*. That the public schools of the State shall be and are defined and distinguished as (a) elementary schools and (b) high schools. The elementary schools shall include the first eight (8) years of school work, and the course of study for such years that which is now prescribed or may hereafter be prescribed by law. The commissioned high schools shall include not less than four (4) years' work following the eight years in the elementary schools. The high school course in non-commissioned high schools shall be uniform throughout the State and shall follow a course to be established and appended or altered from time to time as occasion may arise, by the state board of education.

"Sec. 2. The following enumerated studies shall be taught in all commissioned high schools throughout the State, together with such additional studies as any local board of education may elect to have taught in its high school: *Provided*, That such additions shall be subject to revision of the state board of education. Mathematics: Commercial arithmetic, algebra, geometry. History: United States, ancient, medieval or modern. Geography: Commercial or physical, physical. English: Composition, rhetoric. Literature: English, American. Language (foreign): Latin or German. Science: Biology, physics or chemistry. Civil government: General, state. Drawing. Music."

Chap. 191, Mar. 9, 1907.

1231. **Iowa:** See decision No. D 15.

D 1232. **Iowa** (1905): Acts, twenty-seventh general assembly, p. 48, chap. 84, is entitled "An act to amend sections 2728, 2730, 2731, and 2732 and repeal section 2733 of the code, and enact a substitute therefor, in relation to county schools," and sec. 4 of the statute provides that, should there be more applications for admission to a county high school from any school corporation than the corporation's proportionate number of pupils, the school corporation from which they attend shall pay their tuition out of its contingent fund. *Held*, that the statute is not violative of constitution, art. 3, sec. 29, as embracing more than one subject, but one of which is expressed in its title, on the ground that sec. 4 is an attempt to amend code, sec. 2803, the latter relating to ordinary school corporations, and not being intended to regulate, nor in effect regulating, high schools.—*Boggs v. School Tp. of Cass, Guthrie County*, 102 N. W., 796.

1233\*. **Kansas**: Repealing, and reenacting with amendments, secs. 4 and 10, chap. 397, Laws, 1905, providing for the maintenance and regulation of county high schools in districts or cities under 16,000 population.

Apportionment of high-school fund to be made according to estimated cost of maintaining high schools, in place of according to average daily attendance.

Providing for the submission to electors of counties of the question of adoption of the provisions of the high-school act of 1905, as amended by laws of 1907 and 1908.

Chap. 69, Jan. 27, 1908.

1234\*. **Kansas**: Repealing, and reenacting with amendments, sec. 6, chap. 397, Laws, 1905, relative to the regulation and maintenance of high schools in districts or cities under 16,000 population.

Relating to county high schools. Providing for the certification of the amount necessary for maintenance of such schools by county superintendent. Maximum levy, 3 mills. County superintendent to make levy in case county commissioners fail to do so.

Chap. 333, Mar. 9, 1907.

1235\*. **Kansas**: Repealing, and reenacting with amendments, sec. 0455, General Statutes, 1901 (sec. 1, chap. 250, Laws, 1890), authorizing and enabling school districts in certain counties to levy a tax and pay the high-school tuition of all scholars actually residing in said district.

Relating to school districts located in counties not maintaining a county high school. Provisions concerning tax levy for the payment of tuition of pupils in other high schools not to apply to any county adopting provisions of chap. 397, Laws, 1905.

Chap. 330, Mar. 5, 1907.

D 1236. **Kansas** (1904): Laws, 1889, p. 326, chap. 224, sec. 1 (Gen. Stat., 1901, sec. 6305), authorizing cities of second class to maintain high schools in whole or in part by collection of a tuition fee from each pupil, is a violation of constitution, art. 6, sec. 2, providing for the establishment of a uniform system of common schools and schools of higher grade.—*Board of Education of the City of Lawrence v. Dick*, 78 P., 812.

The term "common schools," as used in constitution, art. 6, sec. 2, providing for their establishment, means "free common schools."—*Ibid*.

The high school grade of a city system of schools is a part of the common school system.—*Ibid*.

D 1237. **Kansas** (1906): Laws, 1905, p. 676, chap. 414, authorizing boards of education to separate colored and white children in high schools; and to maintain separate high schools for white and colored children, is a special act amendatory of sec. 6290, Gen. Stat., 1901, relating to the regulation and support of public schools, and is not in violation of any provision of the constitution.—*Richardson v. Board of Education of Kansas City*, 84 P., 538, 72 Kan., 629.

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D 1238. **Kansas** (1908): *PER CURIAM*. This case involves the constitutionality of chap. 388, p. 534, Laws, 1907, entitled "An act providing for a special tax levy for the construction and equipment of a county high school building for Scott County, Kansas." The act is special, and under the authority of the case of *Anderson v. Board of County Commissioners of Cloud County* (just decided), 95 Pac., 583, is held to be repugnant to the provisions of sec. 17, art. 2, of the constitution, and therefore void for the reason that a general law could plainly be made applicable.

The judgment will be reversed, and the cause remanded for further proceedings. *Deng et al. v. Lamb et al.*, 95 P., 592.

1239. **Kentucky**: See enactment No. 133.

1240. **Maine**: Amending sec. 1, chap. 68, Public Laws, 1903 (sec. 63, chap. 15, Revised Statutes, 1903), relative to high school tuition of nonresidents.

Adding provision that such tuition shall constitute a part of the high school fund of town receiving same.

Chap. 73, Mar. 20, 1907.

1241. **Maine**: Amending sec. 6, chap. 148, Acts, 1901 (sec. 81, chap. 15, Revised Statutes, 1903), relative to state aid for academies.

Adding provision concerning additional state aid for academies maintaining a training school for teachers, a course in manual training, domestic science, or agriculture approved by state superintendent of schools.

Chap. 78, Mar. 20, 1907.

1242. **Massachusetts**: Relative to the maintenance of a high school in the town of Leicester.

Authorizing agreement between trustees of Leicester Academy and school committee for conducting a high school in the academy.

Chap. 496, June 12, 1907.

1243. **Massachusetts**: Providing for a high school building commission for the city of Haverhill.

Prescribing powers and duties of commission; limiting expenditures for building and grounds to \$350,000.

Chap. 498, June 12, 1907.

1244. **Montana**: Repealing and reenacting a substitute for an act to establish county free high schools and to provide for their maintenance, substitute for H. B. No. 69, p. 59, Laws, 1899, as amended by S. B. No. 37, p. 6, Laws, 1901, as amended by chap. 59, Laws, 1903, validating everything done under said laws of 1899, 1901, and 1903.

Sundry minor amendments.

Chap. 29, Feb. 25, 1907.

D 1245. **Montana** (1907): Sess. Laws, 1907, p. 50, authorizing the establishment of county free high schools. *held* not to violate constitution, art. 5, sec. 23, providing that no bill containing more than one subject shall be passed.—*Evers v. Hudson*, 92 P., 402.

1246. **Nebraska**: Providing four years of free public high school education for all youth of the state whose parents or guardians live in public-school districts which maintain less than a four-year high school course of study.

Defining conditions of admission of such pupils to high school privileges. Fixing tuition charge at 75 cents per week and providing for compulsory tax levy by district of residence to pay such tuition.

Chap. 121, Mar. 6, 1907.

1247. **Nebraska**: Providing for and establishing county high schools.

Providing for elections for such establishment. Constituting county board of commissioners or supervisors as board of trustees for county high school. Defining powers and duties of board of trustees and of its officers. Authorizing the issuance of certificates and diplomas to students and making tuition free to all pupils residing in the county. Providing for the location of the school and authorizing the issuance of bonds.

Chap. 122, Apr. 5, 1907.

1248. **Nevada:** Amending secs. 3, 4, 5, and 6, chap. 31, Statutes, 1895, permitting the establishment of county high schools, and providing for their construction, maintenance, and management.

Providing for election to determine location of school, for deferring the tax levy, and for the erection of a county high school building and reconstituting county boards of education.

(See chap. 154, Mar. 28, 1907, authorizing county commissioners of Churchill County to issue bonds for county high school building in Fallon.)

Chap. 86, Mar. 15, 1907.

1249. **New Hampshire:** Enabling certain school districts to make contracts with certain towns or institutions outside of the state for furnishing instruction to pupils of high school grade.

Chap. 122, Apr. 4, 1907.

- D 1250. **New Hampshire (1906):** Under Laws, 1901, p. 588, chap. 96, secs. 1 and 2, and Laws, 1903, p. 117, chap. 118, sec. 1, authorizing the recovery from a school district for tuition of its residents in a high school where the school district does not maintain a high school, and Laws, 1905, p. 505, chap. 90, sec. 1, authorizing the school district to contract for the tuition of its residents in a high school or academy in another district, where a school district voted to contract with a certain academy and to pay the tuition of pupils then in a certain high school, parents paying tuition of their children then in the high school are entitled to recover from the district the money paid, whether the vote of the district was valid or not.—*Burbank v. School Dist. of Pembroke*, 64 A. 17; 73 N. H. 540.

- D 1251. **New Hampshire (1907):** Laws, 1901, p. 588, chap. 96, sec. 2, providing that a town, not maintaining a high school, which refuses to pay for tuition of any child attending a high school or academy, shall be liable therefor to the parent of the child paying or the town furnishing the tuition, gives parents and school districts maintaining approved schools an action against school districts which refuse to pay the tuition for which they are liable, but does not give an action to academies and approved schools as such.—*New Hampton Institution v. Northwood School Dist.*, 68 A. 538.

- D 1252. **New Hampshire (1907):** Under Laws, 1901, p. 588, chap. 96, as amended by Laws, 1903, p. 117, chap. 118, providing that any town not maintaining a high school shall pay for the tuition of any child attending a high school or academy, and defining a high school or academy as a school having at least one four-year course required for admission to college, etc., and Pub. Stat., 1901, chap. 89, secs. 9-13; Laws, 1900, p. 318, chap. 77; and Laws, 1905, pp. 411, 505, chaps. 19, 90, authorizing the maintenance of high schools, etc., a district maintaining a high school with one course of instruction is not liable for the tuition of children who, having taken that course, attend an approved school in another district, and a district not maintaining a high school is not liable for the tuition of children attending an approved school after having graduated from an approved school.—*New Hampton Institution v. Northwood School Dist.*, 68 A. 538.

1253. **New York:** Amending sec. 4, chap. 650, Laws, 1905, as amended by chap. 258, Laws, 1900, relative to the erection of a new high school in the city of Syracuse.

Increasing total bond issue from \$200,000 to \$275,000.

Chap. 58, Mar. 20, 1907.

1254. **North Carolina:** See enactment No. 148.

1255. **North Carolina:** Stimulating high-school instruction in the public schools of the State.

Authorizing county high schools to be established and maintained by county boards of education with consent of state board of education.

Chap. 820, Mar. 8, 1907.

1256\*. **Ohio:** Repealing, and reenacting with amendments, sec. 1 (H. B. 171, p. 281, Laws, 1898), act of April 25, 1898 (sec. 4009-15, Revised Statutes, 1905), empowering township boards of education to establish township or joint township high schools, and to discontinue subdistrict schools when too small to justify their continuance, as amended April 25, 1904 (S. B. 57, p. 359, Laws, 1904), providing for joint high-school districts.

Providing that such joint high school shall be under the control of a joint high-school committee. Authorizing special tax, not exceeding 5 mills in any year, for such school.

H. B. 1023, p. 462, May 9, 1908.

1257. **Oregon:** Providing for the choice by an election of the location of the county high school in counties which have heretofore voted in favor of a county high school.

Chap. 80, Feb. 23, 1907.

1258. **Oregon:** Providing for the establishment of union high-school districts and for the maintenance and government of the same.

Providing for procedure for consolidation of districts for high-school purposes. Defining the constitution of union high-school board; powers and duties.

Chap. 101, Feb. 23, 1907.

1259. **Pennsylvania:** Amending act No. 23, Laws, 1905, permitting children residing in school districts in which no public high school is maintained to attend a high school in some other district, located near their homes, and providing for the payment of cost of tuition and schoolbooks.

Requiring attendance at the nearest or most convenient township or borough high school. Defining more clearly the method of calculation and payment of the cost of tuition and schoolbooks.

Act No. 103, May 23, 1907.

1260. **Pennsylvania:** Supplementing act No. 203, Acts, 1895, regulating the establishment, classification, and maintenance of high schools, the distribution of appropriations in aid of high schools, and the employment of teachers in high schools receiving state aid.

Authorizing the directors of adjacent townships or school districts to purchase real estate and erect buildings for joint high schools, and to issue bonds for said purpose; and providing for formation of high school boards to control and manage said schools.

Act No. 239, May 20, 1907.

1261\*. **South Carolina:** Providing high schools for the state.

Authorizing the establishment of high schools by counties, townships, adjoining townships, or school districts, and incorporated towns or cities of not more than 1,000 inhabitants. Providing for adoptive elections, boards of trustees, special tax levies, and bond issues, for the classification of high schools, and for state aid. Appropriating annually \$50,000.

Act No. 245, p. 518, Feb. 19, 1907.

1262. **Tennessee:** Amending sec. 9, chap. 254, Acts, 1903, relative to county boards of education.

Adding new subsection authorizing contracts with city boards of education or with private schools for the instruction of high school pupils and payment of the tuition thereof.

Chap. 520, Apr. 15, 1907.

1263\*. **Utah:** Amending sec. 1831, Revised Statutes, 1898, relative to the union of school districts to form a high school district.

Constituting a county district of the first class a high school district, and endowing its board of education with all powers and duties provided for in sec. 1833, Revised Statutes, 1898.

Chap. 51, Mar. 14, 1907.



1284\*. **Vermont:** Amending sec. 5, act No. 37, Acts, 1904, relative to high schools.

Defining and fixing authority of superintendent of education regarding standards for high schools and qualifications for pupils. Decision of, final.

Sec. 2, act No. 50, Dec. 19, 1903. (Apr. 1, 1907.)

1205. **Vermont:** Revising and continuing in force the act of Nov. 6, 1805; act No. 53, Acts, 1824; act No. 14, Acts, 1836; act No. 106, Acts, 1852, relative to the Essex County grammar school at Guildhall.

Providing for the establishment, revival, and management of the school.

Act No. 346, Dec. 12, 1906.

D 1266. **Vermont (1906):** Under Acts, 1904, act No. 37, p. 61, requiring towns to establish and maintain a high school or furnish higher instruction for advanced pupils, and authorizing the board of school directors to provide for the instruction of advanced pupils in a high school or schools of the town, in the high school of an incorporated school district or academy within the town, or in the high schools or academies of other towns, the board of school directors has a discretion in determining which of the modes of furnishing high school instruction they will follow, and so long as they select one mode they can not be compelled by mandamus to select another mode in its place.—*Sampson v. Town of Grand Isle*, 63 A. 180; 78 Vt., 383.

1268. **West Virginia:** Amending and reenacting secs. 1, 3, 4, and 7, chap. 31, Acts, 1906, relative to the establishment of a high school in Tyler County.

Chap. 23, Feb. 22, 1907.

1269. **Wisconsin:** Creating sec. 490a, Statutes, 1898, relative to the powers of electors of school districts.

Authorizing vote to discontinue free high school organization. Procedure.

Chap. 588 (in part), July 12, 1907.

D 1270. **Wisconsin (1908):** Laws, 1901, p. 234, chap. 188, as amended by Laws, 1903, p. 525, chap. 329, authorizing persons of school age to may reside in any town or incorporated village not within a free high school district to attend a free high school, and making the municipality or part of the municipality having no high school in which such persons reside liable for high school tuition at a specified rate, is a valid exercise of legislative power.—*City of Columbus v. Town of Fountain Prairie*, 115 N. W., 111.

1271. **Wyoming:** Amending in a minor manner and reenacting secs. 2, 9, 10, 13, and 20, chap. 67, Laws, 1906, relative to county high school districts.

Chap. 57, Feb. 10, 1907.

1272. **Wyoming:** Providing for extending the territory of high school districts provided for in chap. 67, Laws, 1906.

Providing for incorporating therein school districts within the same county.

Chap. 58, Feb. 16, 1907.

#### O. TECHNICAL AND INDUSTRIAL EDUCATION—ELEMENTARY AND SECONDARY.

The vocational and industrial trend of public education finds no better evidence than in the enactments of this group, which group it was found desirable to create in order that due prominence might be

given to the latest legislative efforts to further the development of elementary and secondary technical training. Practically all of these enactments are worthy of special mention; that of Connecticut (1274), that of Georgia (1277), that of Michigan (1281), that of Mississippi (1282), that of New York (1287), that of Oklahoma (1291), and that of Wisconsin (1295), however, may be selected as representing efforts of various sorts.

The establishment of a commission on industrial education in New Jersey (1284) and also in Maryland (1270), following the example of Massachusetts several years ago, is an event in the future development of industrial and technical education in that State.

1273. **Alabama:** Amending sec. 12, act No. 988, p. 182, Laws, 1901, granting a new charter to the Alabama Girls' Industrial School and conferring additional powers upon the board of trustees.

Modifying appointment of free students. Providing for condemnation proceedings to secure land. Making trustees ineligible for election to any office by board of trustees.

Act No. 642, p. 579, Aug. 6, 1907. Secs. 1913, 1924, and 1928, Code, 1907.

1274. **Connecticut:** Concerning the establishment of free public schools for instruction in the principles and practice of trades.

"SECTION 1. Any town or school district may, by vote of such town or district, establish and maintain a free public school for instruction in the principles and practice of such distinct trades as may, with the approval of the state board of education, be designated by the board of school visitors, town school committee, or board of education of such town, or the district committee of such district. Such school shall be open, under such rules as may be prescribed by said school officers, to all residents of this state; but no child under sixteen years of age shall be admitted to any such school who has not completed the studies of the eighth grade in the public schools of the town in which said school is located, or an equivalent course of study approved by said school officers. Said school officers shall make rules and regulations with reference to the management of said school not inconsistent with the provisions of this act. The instructors in any such schools shall be experts in the trades respectively taught by them.

"SEC. 2. Two or more towns may, by vote of each of said towns, unite for the purpose of forming a trade school district and establishing schools under the provisions of this act, and the school officers of the towns so united may make all arrangements, agreements, and regulations necessary to the organization and maintenance of such trade school district. The said school officers of each of the towns constituting such district shall appoint one of their number to be a member of the trade school committee of such district, and the committee so appointed shall be a joint committee on behalf of the several towns constituting the district. Each town shall be entitled to one vote in said committee. Every district organized under the provisions of this section shall continue for at least five years, but at the end of said period of five years any town may dissolve said district by withdrawal therefrom, by vote of such town; provided, that notice of the intention to so withdraw shall be given in writing to each of the other towns comprising said district at least three months before the termination of said period.

"SEC. 3. The buildings, equipment, and courses of study, and the qualifications of the teachers of every trade school established as hereinbefore provided shall be subject to the approval of the state board of education; and the attendance at each such school, together with special reports upon the specific work done and the actual results of instruction therein shall be annually certified under oath on or before the first Monday in July by the secretary of the board of school visitors, town school committee, board of education, district committee, or trade school district.

committee, as the case may be, to said state board of education; and no payments shall be made by the state on account of such school, as hereinafter provided, unless said certificate has been filed with and approved by said state board of education, and unless application for state aid for said school has been made to the board of control by said secretary and approved by said board of control.

"SEC. 4. The board of education or board of school visitors of any town, or the committee of any town, school district, or trade school district wherein a trade school has been established under the provisions of this act shall, annually, on the first Monday in July, certify to the comptroller the amount expended within said school year for the maintenance and support of said school and the comptroller shall, upon application of the state board of education, draw his orders on the treasurer in favor of said board of education, board of school visitors, or committee for a sum equivalent to one-half the amount so certified as having been expended for such support and maintenance; provided, that the amount so paid by the state under the provisions of this section shall not, in any one year, exceed, in the aggregate, fifty thousand dollars; and provided, further, that said sum shall be expended toward the support and maintenance of not more than two such schools, and, if application is made in behalf of more than two such schools, the board of control shall designate the two such schools for the support and maintenance of which such payments shall be made."

Chap. 250, July 30, 1907.

1275. **Florida:** *Sec enactment No. 461.*

1276. **Georgia:** Recommending appropriations by Congress for industrial instruction.

"Whereas, Several bills have been introduced in Congress which purpose to furnish means of enlarging existing high schools devoted to instruction in agriculture and other industrial subjects, it is hereby:

"Resolved by the Senate, the House of Representatives concurring, that we respectfully urge upon Congress the wisdom of thus extending to the many the class of industrial instruction so well supplied to the few in our State College of Agriculture and Mechanic Arts, as founded by Congress through the land grant act of 1862.

"Resolved, further, that such legislation be passed that will establish such schools of secondary grade in agriculture, the mechanical trades and industries and home making suited to all country and city youth, and that there be provided for agricultural high schools farms such as these in Georgia, means with which to carry on such agricultural investigations as the local conditions may require:

Resolved further, That a copy of these resolutions be transmitted by the secretary of state of Georgia to the President of the United States, and to our Senators and Representatives in Congress, to the end that they may encourage the passage of this measure known as the Davis bill (H. R. 24575) introduced at the close of the Fifty-ninth Congress, entitled: 'A bill to provide an annual appropriation for industrial education in agricultural high schools and in city high schools and for branch agricultural experiment stations, and regulating the expenditure thereof.'

Con. Res. No. 6, p. 904, Aug. 22, 1907.

1277. **Georgia:** Providing for the establishment and maintenance of schools of agriculture and mechanic arts in the respective congressional districts of the State.

"SECTION 1. Be it enacted, \* \* \* That the governor is hereby authorized to establish and cause to be maintained in each congressional district of the State an industrial and agricultural school in accordance with further provisions of this act. Said schools shall be branches of the State College of Agriculture, a department of the University of Georgia. The general board of trustees of the University shall exercise such supervision as in their judgment may be necessary to secure unity of plan and efficiency in said schools.

"Sec. 2. Be it further enacted, That all fees received from inspection of fertilizers, oils, and all other inspection fees received by the department of agriculture in this State, after the present year, over the expenses of such inspection, and after any portion of said fund otherwise appropriated, shall be used as a fund for the purpose of establishing and maintaining such schools, and, as far as practicable, be equally divided between such schools, and the said governor is authorized to pay to the trustees of said schools, from time to time, their respective portions of said fund.

"Sec. 3. Be it further enacted, That the governor is authorized and directed to appoint from each county in the respective congressional districts one trustee for the school to be established in such districts; such trustee to hold office for the term of six years from his appointment and until his successor is appointed, and that the trustees so selected in each district shall constitute a board of trustees for the school in said district, with power to control the management of said school, and make rules and regulations for the same, subject to the provisions of this act.

"Sec. 4. Be it further enacted, That the governor shall be authorized to receive from any county, or any of the citizens thereof, a donation of a tract of land in such county, not less than two hundred acres, on which to locate a school for the district in which such county is situated, together with any additional donation in the way of buildings or money; and if there are two or more offers of such donations, the governor, with the aid of the trustees of such school, shall select which to accept, taking into consideration the title, value, the centralness of location, accessibility and suitableness in any respect for the purpose intended, and upon the acceptance of any such donation, and the execution of proper deeds vesting title in the trustees, within a reasonable time, the school for said district shall be established on the tract selected, with the right to select another locality should such deeds not be made to the satisfaction of the governor. And if no such donation is made or perfected in any district within one year from passage of this act the pro rata share of the fund going to said district shall go into and be prorated in the regular common school fund in said district.

"Sec. 5. Be it further enacted, That the principal of said schools shall, under the direction of the trustees, keep an account of all receipts from the sale of the products of the farm or shops which are not consumed in said school, and one-half of said receipts for each year shall be set aside as a fund to pay the students. That each pupil, having performed to the satisfaction of the principal his duties for an entire school year, shall receive his pro rata of said fund, the amount going to each pupil not to exceed one hundred dollars, and the balance, if any, to be replaced in the general fund of the school.

"Sec. 6. Be it further enacted, That the course of studies in said schools shall be confined to the elementary branches of an English education, the practical treatises or lectures on agriculture in all its branches, and the mechanic arts, and such other studies as will enable students completing the course to enter the freshman class of the State College of Agriculture on certificate of the principal.

"Sec. 7. Be it further enacted, That the faculty of such schools shall consist of the principal, who shall be an intelligent farmer; one superintendent and instructor in farm work, one intelligent mechanic, who shall direct and instruct in all mechanical work in and out of the shops; one practical instructor in care of stock and dairying, one instructor in English, and such other instructors and assistants as the funds of the college may permit. That the trustees may dispense with and combine the duties of any of the above, as necessity may require, and it shall be the duty of said instructors in said schools to cooperate in conducting farmers' institutes and farm and stock demonstrations in the several counties of their respective districts.

"Sec. 8. Be it further enacted, That after the first buildings are erected, before the opening of such schools, which shall be only such as are absolutely necessary for temporary use, all work on, in and about said schools, or on the farm, or on or in the barns and shops connected with said schools, whether it be farming, building, care of stock, or work of whatever kind, shall be performed exclusively by the students of said

schools, under such regulations for the proper division and alterations in such work as may be provided by the trustees.

"Sec. 9. Be it further enacted, That tuition in said schools shall be free, and the trustees may limit the number of students, from time to time, according to the capacity and means of the institution, and shall make such rules of admission so as to equalize, as far as practicable, the privileges of the school among the counties according to population. And the trustees may defer the actual opening of the school until such time as may be necessary to prepare reasonably proper facilities and equipment for beginning the same, in the meantime accumulating for said purpose the funds going to said school which may be received from the rent of any portion of the property, but it is made the duty of the trustees to open said school, even though it may have to be done at first on a limited scale, as early as practicable, and afterwards extend its operations as circumstances may permit; and the trustees are authorized to rent to the best advantage, from time to time, any portion of the property of said school not required for the purpose of said school.

"Sec. 10. Be it further enacted, That all laws and parts of laws in conflict with this act be, and the same are, hereby repealed."

Act No. 448, p. 72, Aug. 18, 1900.

1278. **Maryland:** Authorizing the governor to appoint a commission on industrial education.

Five members. Report to next legislature. Appropriating \$300.

Chap. 367, p. 298, Apr. 6, 1903.

1279. **Massachusetts:** Providing for an inquiry by the commission on industrial education into the organization and methods of the textile schools of the Commonwealth.

Resolves, chap. 64, Apr. 24, 1907.

1280. **Massachusetts:** Relative to the commission on industrial education. (Amending chap. 505, Acts, 1906.)

Extending term of commission from three years to five years. Providing for the appointment of a woman as an additional member. Specifying further the powers of the commission with reference to independent industrial schools.

"Sec. 4. Any resident of Massachusetts may, with the approval of the commission on industrial education, attend an independent industrial school, as provided for in this act, located in any city or town other than that in which he resides, provided there is no such school supported in whole or in part by the city or town in which he resides, upon payment by the city or town of his residence of such tuition fee as may be fixed by said commission; and the commonwealth shall repay to any city or town one half of all such payments. If any city or town neglects or refuses to pay for such tuition it shall be liable therefor, in an action of contract, to the legally constituted authorities of the school which the pupil attended under the approval of said commission."

Chap. 572, June 2, 1908.

- 1281\*. **Michigan:** Providing for the establishment of free county schools of agriculture, manual training, and domestic economy.

"SECTION 1. The board of supervisors of any county is hereby authorized to appropriate money for the organization, equipment and maintenance of a county school of agriculture and domestic economy. The board of supervisors of two or more counties may unite in establishing such a school, and may appropriate money for its organization, equipment and maintenance: *Provided*, That whenever the board of supervisors of the county shall by a two-thirds vote of all members elect, resolve to contract indebtedness or issue bonds to raise money for the organization, equipment and maintenance of such school, the question shall be submitted to the vote of the electors of the county at a general or special election to be called for that purpose. Notice of the submission of such resolution to the vote of the electors and in case a special election is called, notice of the calling of such special election shall be



given in the same manner and for the same length of time as is now prescribed by law for general elections. If a majority of the electors of each county, voting on such resolution, shall vote in favor thereof, it shall be deemed to have carried. The returns of the election herein provided for shall be canvassed and the results declared in the same manner and by same officers as is provided by general law for canvassing the returns of and declaring the results in city, county and district elections. The manner of stating the question upon the ballots shall be prescribed by the resolution of the board of supervisors.

"SEC. 2. A board to be known as the county school board is hereby created, which shall have charge and control of all matters pertaining to the organization, equipment and maintenance of such schools, except as otherwise provided by law. Said board shall consist of five members, one of whom shall be the county commissioner of schools of the county or district in which the school is located. The other members of the board shall be elected by the board of supervisors, one for one year, one for two years, one for three years and one for four years, and thereafter one member of the board shall be elected annually for the full term of four years from the date of the expiration of the term about to become vacant, but no member of the board of supervisors shall be eligible. Vacancies existing in the board from whatever cause, except in the case of the county commissioner, shall be filled by appointment made by the chairman of the board of supervisors, if the board of supervisors is not in session when such vacancy occurs. If the board of supervisors is in session, vacancies shall be filled by election by said board for the unexpired term. Appointments made by the chairman of the board of supervisors, as hereinbefore specified, shall be for the period of time until the next regular meeting of the board of supervisors. Each person appointed or created a member of the county school board shall, within ten days after the notice of such appointment, take and subscribe an oath, to support the Constitution of the United States and the constitution of Michigan, and honestly, faithfully and impartially to discharge his duties as a member of said board to the best of his ability, which oath shall be filed in the office of the county clerk. He shall also, within the same time, file a bond in such sum as may be fixed by the board of supervisors, which bond shall be filed in the office of the county clerk. Within fifteen days, after the appointment of said board, the members thereof shall meet and organize by electing one of their number as president. The county commissioner of schools shall be ex officio secretary of the said board. The board hereafter created shall prescribe the duties of the several officers except as fixed by law.

"SEC. 3. Whenever two or more counties unite in establishing such a school, the provisions of section two of this act shall apply to the organization of the county school board, and to filling vacancies therein: *Provided*, That the county commissioner of the county in which the school is located shall be a member of the board and ex officio its secretary; and two members shall also be elected from each county by the board of supervisors thereof, one for one year and one for two years, and thereafter one member of the board shall be elected annually in each county for the full term of two years, but no member of the county board of supervisors shall be eligible.

"SEC. 4. Whenever two or more counties shall unite in establishing and maintaining a school under the provisions of this act, the county school board herein provided shall, on or before the first day of October in each year, determine the amount of money necessary for the equipment and maintenance of said school for the ensuing year, which said amount they shall apportion among the counties in proportion to the assessed valuation of each county as last fixed by the state board of equalization and shall report their estimate and apportionment to the county clerk of each county, who shall lay said report before the board of supervisors at its annual meeting. The amount so apportioned to each county shall be levied by the board of supervisors of such county, as a portion of the county tax for the ensuing year, for the support of the said school.

"SEC. 5. The county treasurer of the county in which said school is located shall be ex officio treasurer of said board; all moneys appropriated and expended under the provisions of this act shall be expended by

the county school board and shall be paid by the said county treasurer on orders issued by said board or in counties having a board of county auditors, by such auditors, and all moneys received by said board shall be paid to the said county treasurer for the fund of the county school board.

"Sec. 6. In the county schools of agriculture and domestic economy organized under the provisions of this act, instruction shall be given in the elements of agriculture including instruction concerning the soil, the plant life, and the animal life of the farm; a system of farm accounts shall also be taught; instructions shall also be given in manual training and domestic economy and such other related subjects as may be prescribed.

"Sec. 7. Each such school shall have connected with it a tract of land suitable for purposes of experiment and demonstration, of not less than ten acres in area.

"Sec. 8. The schools organized under the provisions of this act shall be free to the inhabitants of the county or counties contributing to their support, who shall be qualified to pursue the course of study as prescribed by the school board. Whenever students of advanced age desire admission to the school during the winter months in sufficient number to warrant the organization of special classes for their instruction, such classes shall be organized and continued for such time as their attendance may make necessary.

"Sec. 9. The state superintendent of public instruction shall give such information and assistance and establish such requirements as may seem necessary for the proper organization and maintenance of such schools, and, with the advice of the president of the Michigan State Agricultural College, determine the qualifications required of teachers employed in such schools: *Provided*, That no person shall be eligible to a position as superintendent of any school established under this act, who is not a graduate of a state college of agriculture. The state superintendent of public instruction shall have the general supervision of all schools established under this act; shall from time to time inspect the same, make such recommendations relating to their management as he may deem necessary, and make such report thereon to said schools as shall give full information concerning their number, character and efficiency. . . ."

Act No. 35, Apr. 3, 1907.

- 1282\*. Mississippi: Providing for the establishment of county agricultural high schools, and providing for their organization, equipment, and maintenance.

Authorizing one school in each county. Maximum tax, 2 mills: One thousand dollars annual state aid.

Chap. 102, Mar. 21, 1908.

1283. Mississippi: Authorizing county boards of supervisors to offer prizes to corn clubs of the public schools.

Maximum total sum to be allowed annually not to exceed \$50.

Chap. 104, Mar. 16, 1908.

- 1284\*. New Jersey: Authorizing the governor to appoint a commission to inquire into the subject of industrial education and report thereon to the next legislature.

Appropriating \$3,000 for expenses. No compensation to commissioners.

Jt. Res. No. 9, Apr. 14, 1908.

1285. New Jersey: Amending sec. 203, chap. 1, Laws, 1903 (sp. sess., Oct. 15), relative to appropriations for the manual training and industrial school for colored youth.

Increasing annual amount due under provisions of the supplement to the act of Congress, Aug. 13, 1890, from \$5,000 to \$12,000.

Chap. 120, May 7, 1907.

1286. **New Jersey:** Relating to schools for industrial education in cities of the second class.

Authorizing the trustees of the school for industrial education in any such city, with the consent of the governing body of the city, to erect suitable buildings for an industrial school; providing the cost of the land and buildings shall not exceed \$50,000; authorizing the issuance of bonds therefor.

Chap. 222, May 27, 1907.

- 1287\*. **New York:** Amending secs. 25-28, art. 10, tit. 15, consolidated school law (chap. 550, Laws, 1894), by providing for the establishment and maintenance of general industrial and trade schools in cities and in union free school districts, and making an appropriation therefor.

" \* \* \* SEC. 25. *General industrial and trade schools may be established.* 1. The board of education of any city, and in a city not having a board of education the officer having the management and supervision of the public school system, may establish, acquire, conduct and maintain as a part of the public school system of such city general industrial schools open to pupils who have completed the elementary school course or who have attained the age of 14 years, and trade schools open to pupils who have attained the age of 16 years and have completed either the elementary school course or a course in the above mentioned general industrial school or who have met such other requirements as the local school authorities may have prescribed.

" 2. The board of education of any union free school district shall also establish, acquire and maintain such schools for like purposes whenever such schools shall be authorized by a district meeting.

" SEC. 2. Section 25a is hereby added to article 10, title 15, of the consolidated school law and to read as follows:

" SEC. 25a. 1. *Appointment of an advisory board.* The board of education in a city and the officer having the management and supervision of the public school system in a city not having a board of education shall appoint an advisory board of five members representing the local trades and industries. In the first instance two of such members shall be appointed for a term of one year and three of such members shall be appointed for a term of two years. Thereafter as the terms of such members shall expire the vacancies caused thereby shall be filled for a full term of two years. Any other vacancy occurring on such board shall be filled by the appointing power named in this section for the remainder of the unexpired term.

" 2. It shall be the duty of such advisory board to counsel with and advise the board of education or the officer having the management and supervision of the public school system in a city not having a board of education in relation to the powers and duties vested in such board or officer by section 26 of this act.

" SEC. 3. Section 26 of article 10 of title 15 of the consolidated school law is hereby amended to read as follows:

" SEC. 26. *Authority of the board of education over such schools.* The board of education in a city and the officer having the management and supervision of the public school system in a city not having a board of education and the board of education in a union free school district which authorizes the establishment of a general industrial or a trade school is vested with the same power and authority over the management, supervision and control of such school and the teachers or instructors employed therein as such board or officer now has over the schools and teachers under their charge. Such boards of education or such officer shall also have full power and authority:

" 1. To employ competent teachers or instructors.

" 2. To provide proper courses of study.

" 3. To purchase or acquire sites and grounds and to purchase, acquire, lease or construct and to repair suitable shops or buildings and to properly equip the same.

" 4. To purchase necessary machinery, tools, apparatus and supplies.

" SEC. 4. Section 27 of article 10 of title 15 of the consolidated school law is hereby amended to read as follows:

"Sec. 27. *State aid for general industrial and trade schools.* The commissioner of education in the annual apportionment of the state school moneys shall apportion therefrom to each city and union free school district the sum of \$500 for each independently organized general industrial or trade school maintained therein for 40 weeks during the school year and employing one teacher whose work is devoted exclusively to such school and having an enrollment of at least 25 pupils and maintaining a course of study approved by him. He shall also make an additional apportionment to each city and union free school district of \$200 for each additional teacher employed exclusively in such schools for 40 weeks during the school year. All such moneys apportioned by the commissioner of education shall be used exclusively for the support and maintenance of such schools in the city or district to which such moneys are apportioned. But the commissioner of education may in his discretion apportion to a district or city maintaining such schools or employing such teachers for a shorter time than 40 weeks, an amount pro rata to the time such schools are maintained or such teachers are employed. This section shall not be construed to entitle manual training high schools or other secondary schools maintaining manual training departments, to an apportionment of funds herein provided for.

"Sec. 5. Section 28 is hereby added to article 10, title 15, of the consolidated school law and to read as follows:

"Sec. 28. *Annual estimate by board of education and appropriations by municipal and school districts.* 1. The board of education of each city or the officer having the management and supervision of the public school system in a city not having a board of education shall file with the common council of such city within 30 days after the commencement of the fiscal year of such city a written itemized estimate of the expenditures necessary for the maintenance of its general industrial and trade schools and the estimated amount which the city will receive from the state school moneys applicable to the support of such schools. The common council shall give a public hearing to such persons as wish to be heard in reference thereto. The common council shall adopt such estimate and after deducting therefrom the amount of state moneys applicable to the support of such schools shall include the balance in the annual tax budget of such city. Such amount shall be levied, assessed and raised by tax upon the real and personal property liable to taxation in the city at the time and in the manner that other taxes for school purposes are raised. The common council shall have power by a two thirds vote to reduce or reject any item included in such estimate.

"2. The board of education in a union free school district which maintains a general industrial or trade school shall include in its estimate of anticipated expenses pursuant to the provisions of sections 9 and 18 of title 8 of this act the amount that will be required to maintain such schools after applying toward the maintenance thereof the amount apportioned therefor by the commissioner of education. Such amount shall thereafter be levied, assessed and raised by tax upon the taxable property of the district at the time and in the manner that other taxes for school purposes are raised in such district.

"Sec. 6. *Powers and duties of Commissioner of Education.* The commissioner of education shall have general supervision of such schools; he shall prescribe regulations governing the licensing of the teachers employed therein; and he is hereby authorized, empowered and directed to provide for the inspection of such schools, to take necessary action to make effectual the provisions of this act, and to advise and assist boards of education in the several cities and school districts in the establishment, organization and management of such schools. The sum of \$7,000, or so much thereof as may be necessary, is hereby appropriated to the education department for the enforcement of this act, and the commissioner of education is hereby empowered to create such positions, to make such appointments and to fix the salary of employees as may be necessary for the purposes of this act for the period of one year.

"Sec. 7. This act shall take effect immediately."

Chap. 263, May 18, 1908.

1288. North Dakota: See enactment No. 1430.

1289. North Dakota: Amending sec. 1092, Revised Codes, 1905, relative to the object of the North Dakota Academy of Science.

Object of school to be "the training of skilled workmen in the practical phases of applied science."

(Chap. 100 (in part), Mar. 19, 1907.

1290. Ohio: See enactment No. 653.

1291\*. Oklahoma: Putting into force sec. 7, art. 13, of the constitution requiring the teaching of the elements of agriculture, horticulture, stock feeding, and domestic science in the common schools; creating a harmonious system of agriculture and industrial education for Oklahoma; providing for the establishment of departments of agricultural instruction in the state normal schools and for the chair of agriculture for schools in the agricultural and mechanical college; and providing for the establishment and maintenance of agricultural schools of secondary grade in each supreme court judicial district, with branch agricultural experiment stations and short courses for farmers in connection therewith.

"SECTION 1. That for the purpose of carrying out the requirements of the state constitution relating to the teaching of the elements of agriculture, horticulture and stock feeding, and domestic science in the common schools of the State, there is hereby created a state commission of agricultural and industrial education, consisting of the state superintendent of public instruction, who shall be chairman thereof; the president of the state board of agriculture, and the president of the agricultural and mechanical college, each of whom shall serve without additional pay. Said commission shall conform to the rulings of the state board of education, shall cooperate with all state normal schools, the agricultural and mechanical colleges, and the state board of agriculture, and said boards and institutions are hereby required to cooperate with the state commission of agricultural and industrial education as far as practicable, and without interfering with the more immediate duties of said boards and institutions. Said commission shall make a report in writing to the governor at least thirty days prior to the regular sessions of the legislature including the work done under its supervision and a complete account of all funds and their disbursements made in pursuance of this act, together with such recommendations as may, by said board, be deemed advisable.

"SEC. 2. The elementary principles of agriculture, horticulture, animal husbandry, stockfeeding, forestry, building country roads, and domestic science, including the elements of economics, shall be embraced in the branches taught in all the public schools of this state, receiving any part of their support from this state, and these branches shall be as thoroughly studied and taught by observation, practical exercises, and the use of text and reference books, and in the same manner as are other like required branches in said public schools.

"SEC. 3. The state superintendent of public instruction shall investigate and determine the character, extent and cost of courses of instruction in the branches provided for in this act, including manual training adapted to the different schools; and through bulletins and public addresses give information to school boards and communities as to the courses and character of instruction which have proved most satisfactory and best adapted to various schools. He shall determine and give information as to where the most thoroughly trained and best equipped teachers of subjects named in this act may be found, and shall formulate and recommend plans for the organization of training and normal schools for the preparation of teachers of said subjects. He shall, in all proper ways, seek to awaken an active interest among teachers in the subjects required to be taught in this act and shall, in all proper ways, awaken public sentiment to the importance of teaching said subjects in the common schools and all public schools with efficiency and success, and shall make such investigations as may be necessary for the proper performance of his duties as prescribed in this act.

"SEC. 4. All county superintendents of education shall file a written report with the president of the state board of education annually at



such time as the president of said board may require, concerning the cost, character and extent of such courses of instruction in the branches provided to be taught in this act, in their respective counties, together with such reports on work done and suggestions in relation thereto as the president of the state board of education may require.

"Sec. 5. After July 1st, 1909, no person shall teach and no certificate will be granted to an applicant to teach, in the public schools receiving aid from this state, who has not passed a satisfactory examination in the elements of agriculture and allied branches mentioned in this act. It shall be the duty of teachers in all schools receiving aid from the state to file quarterly, or at such times as the county superintendent may require, a written report from the county superintendent of public instruction of their respective counties, in full detail, of any progress or work done in the different branches required to be taught under the terms of this act, together with such recommendations as they may deem advisable, and such other information as the county superintendent may require. Any teacher, whose duty it is to instruct in branches required to be taught by this act, who fails or neglects to comply with the provisions of this act, shall be discharged.

"Sec. 6. The state normal schools, and like schools to be hereafter created, shall lend specific assistance in carrying out the work of instruction in the elements of agriculture and allied branches named in this act, in the same manner as teachers are prepared for other required subjects and shall render such cooperation and active support through their respective presidents, officers, and teachers as will best contribute to the successful introduction and support of a successful system of agricultural and industrial education for the schools of the state. There shall be established in each of the state normal schools, located or to be hereafter located, a department to be known as the department of agricultural and industrial education, with a professor in charge, which shall give such instruction in the regular course or courses, as may be deemed necessary for the instruction of teachers in the public schools of the state. For the purpose of establishing such departments there is hereby appropriated out of the treasury for the maintenance, support, and equipment of said departments the sum of two thousand five hundred dollars, or so much thereof as may be necessary, for each of said departments established in pursuance of this act in the three existing normal schools.

"Sec. 7. The agricultural and mechanical college shall be the technical head of the agricultural, industrial, and allied science system of education, and its president, professors and employees shall lend such assistance in carrying out the objects, aims, and purposes of the state constitution requiring the teaching of agriculture and allied practical subjects as shall not conflict with the immediate duties incumbent on them in said institution.

"Sec. 8. There is hereby created the chair of agriculture for schools, who shall be a member of the faculty of the agricultural and mechanical college, whose duty shall be to direct and advise in all matters relating to the teaching of agriculture and allied subjects in the common schools, under the supervision of the president of the agricultural and mechanical college, and he shall be paid from the funds of the agricultural and mechanical college. He shall visit the schools, the teachers' institutes, the summer normal schools, and the state normal schools, advise with the teachers and officers concerned, and plan such means of cooperation in the improvement of methods, appliances, the use of seeds, plants, and trees as may from time to time be necessary, and shall prepare, print and distribute such leaflets and other literature as may be helpful to teachers and pupils concerned or engaged in teaching industrial, practical, and scientific subjects bearing on technical and practical agriculture and its allied branches.

"Sec. 9. It shall be the duty of the agricultural and mechanical college, under the board of agriculture, (ex officio board of regents of said institution) to carry on all natural history surveys, soil surveys, mineral and forestry surveys that are now provided for by the laws of the state, or that may hereafter be provided for, and it shall be the duty of said agricultural and mechanical college to cooperate with the National Department of Agriculture in carrying out the surveys herein mentioned, and in the construction of country roads, and in all ways and by all

means to supply the schools and the people with agricultural, industrial, and technical facts demanded by the spirit of this act.

"Sec. 10. Any student having completed the regular four years' course of study of the agricultural and mechanical college and receiving a diploma from said college, shall be granted a permanent teachers' certificate of first grade by the state superintendent of public instruction, when application for such certificate has been duly made and approved by the state commission of agricultural and industrial education.

"Sec. 11. The state commissioners of agricultural and industrial education, with the assistance of such experts in agricultural education as may be secured from the State and National Departments of Agriculture, shall have the authority and it shall be their duty to prepare a detailed course of study in the elements of agriculture and allied subjects, domestic science, and economics adapted to the needs of instruction in the elementary and secondary schools of the State. The commission shall prepare a syllabus of the course of study in each subject, in such detail and with such elaboration of the body of knowledge to be considered as may be necessary for the organization and administration of the proper courses of instruction in said branches. In preparing the courses of study required to be taught by this act, any of said subjects may be combined in one text-book so they will be adaptable to the various schools in which they are taught, at the same time, so far as possible, giving practical educational values to each subject. Upon the satisfactory completion of said course of study, as evidenced by a diploma or certificate signed by the county superintendent, pupils shall be admitted to the sub-freshman or higher class of the agricultural and mechanical college without further examination. It shall be the duty of the president of the agricultural and mechanical college each year to send to each school in this State, where such branches as required by this act are taught, a catalogue, and upon application to furnish said schools such other information as may be desired relative to said college. Such catalogues and other information shall be kept in each school for reference.

"Sec. 12. It shall be the duty of the state superintendent of public instruction to secure at least twice a year, a set of examination questions in all the studies required for admission to the agricultural and mechanical college, and he shall send a printed list of same to each county superintendent, which shall be used in examining candidates who may desire to enter said college.

"Sec. 13. It shall be the duty of the county superintendent to give public notice of the examination provided for in the preceding section at the time of all regular teachers' examinations, and to submit such questions to any candidate who may desire to enter the agricultural and mechanical college. The examinations shall be conducted in the same manner as are regular teachers' examinations of the county. The work of each and every candidate, together with the name and address, shall be forwarded by the state superintendent within ten days from the date of the examination, and by him to the president of the college, who shall examine and grade the answers, and report to the candidate as soon as possible, after the receipt of the paper, the result of the examination. An average grade of seventy per cent in each branch will admit the candidate to the agricultural and mechanical college without further examination.

"Sec. 14. There shall be established in each of the supreme court judicial districts a district agricultural school of secondary grade for instruction in agriculture and mechanics and allied branches, and domestic science, and economics, with courses of instruction leading to the agricultural and mechanical college, and the state normals. At least two of said agricultural schools shall be located and established, beginning July nineteen hundred eight, and every two years thereafter, until one of said agricultural schools shall have been provided for in each supreme court judicial district; provided, that each of said agricultural schools shall be provided with not less than eighty acres of land without cost to the state and deeded in perpetuity to the state. The location, operation, and equipment of said agricultural schools shall be under the administration of the state commission of agricultural and industrial education, subject to the approval of the board of agriculture.

"Sec. 15. There shall be an experimental farm, operated by each of said agricultural schools, on which careful trials shall be made of the best fruits, vegetables, flowers, field and forage crops, fertilizers, and stock feeds for that section, as well as the systems of dairying, drainage, irrigation and farm management that may be considered of practical value and adapted to the needs of the people in such supreme court judicial districts; provided that each district agricultural school shall make at least one report annually to the governor of the State covering all work done, its cost, the results, and the probable value of such experiments, which report shall be published for free distribution to farmers, fruit and vegetable growers and stockmen in the supreme court judicial district in which said school is located.

"Sec. 16. There shall be held annually by each of said agricultural schools a farmers' short course extending over at least one week and embracing practical and elementary scientific instruction in those branches of agriculture that may be deemed most important in the supreme court judicial district in which any such agricultural school is located at the time such course of instruction is to be provided, including a course in domestic economy, canning, preserving and cooking. There shall be no fees charged for attendance on these practical courses of instruction and no entrance examinations may be required; provided, that all citizens of the white race over fifteen years of age shall be entitled to admission to such courses.

"Sec. 17. No courses of instruction shall be offered in such agricultural schools other than industrial courses, but this shall not exclude teaching the common school branches, the languages, manual training, manufacture, the sciences, and other necessary studies as subjects in the industrial courses.

"Sec. 18. There is hereby appropriated out of the building fund of the state treasury for the purpose of erecting the necessary building or buildings, for the first two schools, the sum of twenty thousand dollars for each school, and out of the state treasury for the maintenance and support of such school the sum of twelve thousand dollars for each school per annum for maintenance during the first year; provided, that one-fourth of the sum herein appropriated for the support and maintenance of such schools shall be expended in developing agricultural experiment in field, barn, orchard, shops, and garden of practical value to students of the school and to farmers of the supreme court judicial district in which such school may be located.

"Sec. 19. The state commission of agricultural and industrial education is hereby authorized, subject to the approval of the board of agriculture, to advertise for plans and specifications and to contract under the terms of this act for the construction of such buildings subject to such laws as are in force governing the advertising for plans and specifications and the construction of other public buildings.

"Sec. 20. All acts and parts of acts in conflict herewith are hereby repealed.

"Sec. 21. An emergency is hereby declared, by reason whereof it is necessary for the immediate preservation of the public peace and safety that this act take effect from and after its passage and approval."

Chap. 3, S. B. 109, p. 13, May 20, 1908.

1202. **Oklahoma:** Establishing an industrial institute and college for girls, and providing for its location and government.

Chap. 70, S. B. 249, p. 614, May 16, 1908.

1203. **Wisconsin:** Creating secs. 920—22 to 920—30, inclusive, Statutes, 1898, providing for the establishment and maintenance of trade schools.

"Section 920—22. Any city in the State of Wisconsin or any school district having within its limits a city desiring to establish, conduct and maintain a school or schools for the purpose of giving practical instruction in the useful trades to persons having attained the age of sixteen years, as a part of the public school system of such city, is empowered to do so by complying with the provisions of sections 920—22 to 920—30, inclusive, statutes of 1898.

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"926-23. Such trade school or schools shall be under the supervision and control of the school boards of the respective cities or school districts in which they may be located.

"926-24. The school board of every such city or school district is given full power and authority to establish, take over and maintain a trade school or schools, equip the same with proper machinery and tools, employ a competent instructor or instructors, and give practical instruction in one or more of the common trades. Such a trade school shall not be maintained, however, unless there be an average enrollment of at least thirty scholars.

"926-25. Whenever any school board shall have established or taken over an established trade school, such school board may prepare the courses of study, employ instructors, purchase all machinery, tools and supplies, purchase or lease suitable grounds or buildings for the use of such school and exercise the same authority over such school which it now has over the schools under its charge.

"926-26. Whenever any school board shall have established or taken over an already established trade school or schools it may appoint an advisory committee, to be known as the committee on trade schools, consisting of five citizens, not members of the school board, each of whom is experienced in one or more of the trades to be taught in the school or schools, to assist in the administration of the trade school or schools located in that city, which committee shall be appointed by the president of such school board with the approval of a majority of the board. Such committee shall have authority, subject to the approval and ratification of the school board, to prepare courses of study, employ or dismiss instructors, purchase machinery, tools and supplies, and purchase or rent suitable grounds or buildings for the use of such trade schools. When any such committee on trade schools is appointed two of its original members shall be appointed for the term of one year, another two for the term of two years, and the fifth member for a term of three years, and thereafter, each member of said committee shall be appointed for the term of two years. In case of any vacancy during the term of any member of said committee, said school board shall fill such vacancy by appointment for such unexpired term.

"926-27. Students attending any such trade school may be required to pay for all material consumed by them in their work in such school at cost prices or in lieu thereof the school board may establish a fixed sum to be paid by each student in each course which sum shall be sufficient to cover, as nearly as may be, the cost of the material to be consumed in such course; any manufactured articles made in such school may be disposed of at the discretion of the school board, and the proceeds shall be paid into the trade school fund.

"926-28. Whenever any such school board shall have decided to establish a trade school or schools, or to take over one already established, under the provisions of this act, a tax, not exceeding one half of one mill on the total assessed valuation of such city shall be levied, upon the requisition of the school board, as other school taxes are levied in such city; the fund derived from such taxation shall be known as the trade school fund, shall be used in establishing and maintaining a trade school or trade schools in such city, shall not be diverted or used for any other purpose whatsoever, and may be disposed of and disbursed by the school board of such city in the same manner and pursuant to the same regulations governing the disposition and disbursement of regular school funds by such boards.

"926-29. Any school board desiring to avail itself of the provisions of this act, may, before the trade school fund herein provided for becomes available, establish, take over, equip and maintain a trade school or schools out of the regular school funds which may be at the disposal of such school board, provided, however, that all moneys used for these purposes out of the regular school funds shall be refunded within three years from the trade school fund.

"926-30. 1. When the school board of any city of the second, third or fourth class, or the school board of any school district having within its limits such a city, shall determine to establish, take over, conduct or maintain such trade school, it shall publish notice of its intention so to do with a copy of the resolution or order, expressing such determination



once each week for four successive weeks in a newspaper published in said school district and shall take no further steps in said matter until the expiration of thirty days from the date of the first publication.

"2. If within such thirty days there shall be filed with the clerk of such city a petition signed by a number of electors of the school district equal to twenty per centum of the number of votes cast in said city at the last municipal election praying that the question of the establishment, taking over, conduct and maintenance of such trade school shall be submitted to the vote of the electors of such school district, the city clerk shall at the earliest opportunity lay such petition before the common council. The common council shall thereupon at its next regular meeting by resolution or ordinance direct the city clerk to call a special election for the purpose of submitting such question to the electors of such city and school district.

"3. Such election shall be noticed and conducted and canvassed in accordance with the provisions of section 943, statutes of 1898. All electors within the territory constituting such school district, qualified to vote at any election pertaining to school district matters shall be entitled to vote.

"4. If any of said school districts shall be beyond the limits of such city, the city clerk shall immediately upon the passage of the resolution or ordinance by the city council ordering such election, transmit a copy thereof to the clerk of the town or towns of which such territory is constituted. The clerk or clerks of said towns shall thereupon cause a notice of such election to be given and such election to be held and canvassed as provided in section 943.

"5. If a majority of the ballots cast in such school district shall be in favor of the establishment, taking over, conducting and maintenance of such trade school, then such board shall proceed as heretofore provided to establish, take over, conduct and maintain such trade school. But if a majority shall vote against such proposition to establish, take over, conduct and maintain a trade school, the board shall take no further steps towards such end.

"6. If no petition to submit such proposition to establish, take over or maintain a trade school to the vote of the electors shall be filed with the city clerk within thirty days after the first publication of the notice of the determination of the school board to take such action, then such school board may proceed as hereinbefore provided without submitting such proposition to the electors of the district."

Chap. 122, May 22, 1907.

1294. Wisconsin: Creating sec. 490m of the Statutes relating to the establishment of technical schools and colleges by cities.

Cities may establish technical schools: referendum.

Chap. 344, June 24, 1907.

1295. Wisconsin: Amending sec. 10, chap. 288, Laws, 1901, as amended by chap. 143, Laws, 1903 (sec. 5531, Statutes), relative to the number of county schools of agriculture and domestic economy.

Increasing the maximum number of schools to be established from four to eight.

Chap. 540, July 10, 1907.

1296. Wisconsin: Creating secs. 392m to 392t, inclusive, Statutes, 1898, relative to the establishment of a state mining trade school and making an appropriation therefor.

Providing for the establishment of the Wisconsin mining trade school at Platteville, to teach the science, art, and practice of mining and the application of machinery thereto, said school to be under the control and management of a board of three members, known as the Wisconsin mining school board. Providing for the appointment of members, term, compensation, organization, procedure, powers, and duties of the board. Prescribing branches to be taught. Requiring consultation with dean of college of engineering at University of Wisconsin as to course of study. Prohibiting fees to residents of State and contraction of debt by college. Appropriating \$30,000.

Chap. 573, July 11, 1907.



## P. HIGHER EDUCATIONAL INSTITUTIONS.

## (a) General.

1297. **Florida:** Providing for the erection of a statue of Edmund Kirby Smith in the national Statuary Hall in Washington and providing for a commission.

(Formerly chancellor of the University of Nashville and professor of mathematics in the University of the South.)

Chap. 5714 (act No. 119), May 20, 1907.

- D 1298. **Illinois (1908):** A student supporting himself entirely by his own efforts, not subject to parental control, and who regards the place where the college is situated as his home, even though he may at some future time intend to remove, is entitled to vote.—*Welch v. Shumway*, 83 N. E., 549; 232 Ill., 54.

A student is presumed not to have the right to vote, and, if he attempts to do so, the burden is on him to prove his residence.—*Ibid.*

The fact that a student has borrowed money from his parents to help him through college weakens his claim to a residence in a college town, unless it be shown to be a purely business proposition between himself and his parents.—*Ibid.*

- D 1299. **Michigan (1908):** A university athletic association representing the students and its officers, in building a stand for a football game on the athletic field belonging to the university, does not represent the university board of regents so as to make such board, rather than the association and its officers, the proper party defendant in an action for injury to a spectator at the game from collapse of the stand, though the graduate director of the association, who, by its constitution, is a member of its finance committee, and who also exercises such powers and performs such duties as its board of control may determine and require, is paid for his services as adviser of the association's athletic policy by the regents, and his position of graduate director is dependent on his engagement with the regents, and though he applied to the committee on buildings and grounds for permission to build the stand and received the permission from it; the stand and all other structures on the field being paid for out of the funds of the association, which receives and disburses its money without control by the regents, except that they require a proper auditing of accounts.—*Scott v. University of Michigan Athletic Association et al.*, 116 N. W., 624.

1300. **Oklahoma:** See enactment No. 43.

1301. **Virginia:** See enactment No. 52.

1302. **West Virginia:** Amending and reenacting sec. 57, chap. 20, Code, 1903, as amended and reenacted by chap. 35, Acts, 1905, relating to property exempt from taxation.

Exempting one-half acre of land, and buildings used by college or university society for literary hall, dormitory, or club room, when not leased for profit.

Chap. 75, Feb. 20, 1907.

## (b) Finance; Lands; Support.

The leading characteristic of the legislation relating to the general financial policy of the States toward their higher educational institutions is clearly one of increased liberality. The proposed amendment.

to the constitution of Florida (1307); the increased millage for the University of Michigan (1320); the increased appropriation for the University of Oregon (1341) are representative. While not classified here, the general appropriation acts of nearly all of the States bear out this conclusion of continued generosity toward the higher educational interests.

1303. **Alabama:** Providing for the payment of deferred interest on land fund for the Alabama Girls' Industrial School.

Act No. 159, p. 235, Feb. 23, 1907. (Sec. 1932, Code, 1907.)

1304. **Arizona:** Amending tit. 65, Revised Statutes, 1901, relative to school lands.

Amending so as to permit and authorize the board of education of the Tempe Normal School to take possession and control of a certain section of school land.

Chap. 52, Mar. 18, 1907.

1305. **Colorado:** Transferring 10 per cent of the proceeds of the principal of the land fund belonging to the State Agricultural College to the credit of the college fund, and authorizing the expenditure by the state board of agriculture of the said 10 per cent for the purchase of lands for sites or experimental farms in connection with the State Agricultural College.

Chap. 221, Apr. 3, 1907.

1306. **Delaware:** Providing for the purchase of a farm for experimental purposes in the interest of agriculture.

Authorizing the issuance of bonds to the amount of \$20,000; also creating a special commission.

Chap. 50, Mar. 29, 1907.

1307. **Florida:** Proposing an amendment to art. 12 of the state constitution, 1885, relative to education, by adding sec. 16, providing for the levy of a special tax for the support and maintenance of the University of the State of Florida, the Florida Female College, the institute for the blind, deaf, and dumb, and the colored normal school.

Requiring special state levy of 1 mill.

Jt. Res. No. 2, p. 768, June 3, 1907.

1308. **Florida:** Making appropriation for the construction and repair of buildings, laying out and maintenance of grounds, and for the support and maintenance of state institutions of higher education created and required to be maintained by chap. 5384, Acts, 1905, known as the University of Florida, the Florida Female College, the institute for the blind, deaf, and dumb, and the colored normal school; providing for the payment of any interest deficit on the 3 per cent bonds held for the benefit of any of said institutions under the said act and the act of Congress of July 2, 1862, and for the payment of any unpaid debts of the institutions abolished or established under the act known as chap. 5384, Acts, 1905, aforesaid, under the provisions thereof.

Chap. 5302 (act No. 7), May 30, 1907.

1309. **Florida:** Requiring the state board of education to deed to the city of Lake City, for educational purposes, the lands held for and used by the University of Florida, formerly located at Lake City, and making an appropriation of \$15,000 to pay to the city of Lake City the amount claimed by the said city under the provisions of chap. 5384, Acts, 1905.

Chap. 5659 (act No. 64), May 27, 1907.

1310. Idaho: Amending sec. 2, p. 419, Laws, 1905, creating and establishing the scientific school fund, providing that moneys received into the state treasury from certain sources shall be placed in and constitute such fund, and appropriating all of the moneys credited thereto during the years 1905 and 1906 for the support and maintenance of the college or department of arts of the University of Idaho.

Making perpetual the operation of said act after first Monday of January, 1907.

S. B. 27, p. 26, Feb. 19, 1907.

1311. Idaho: Amending sec. 2, p. 420, Laws, 1905, creating and establishing the agricultural-college fund, providing that moneys received into the state treasury from certain sources shall be placed in and constitute such fund, and appropriating all of the moneys credited thereto during the years 1905 and 1906 for the support and maintenance of the college or department of arts of the University of Idaho.

Extending time of operation of act for two years, or until first Monday of January, 1909.

S. B. No. 28, p. 27, Feb. 19, 1907.

1312. Idaho: Providing for the issuance and sale of state bonds for the University of Idaho.

Authorizing issuance of \$50,000 bonds for rebuilding and equipment. Providing fund by annual tax levy for payment of interest and principal.

H. B. No. 65, p. 153, Mar. 7, 1907.

1313. Idaho: Providing for the issuance and sale of state bonds for the construction of additional buildings at the Academy of Idaho.

Authorizing issuance of bonds to the amount of \$21,000 and creating sinking fund.

H. B. No. 79, p. 135, Mar. 7, 1907.

1314. Idaho: Providing for the issuance and sale of state bonds for the University of Idaho.

Authorizing issuance of \$120,000 bonds for rebuilding and equipment. Providing fund by annual tax levy for payment of interest and principal.

H. B. No. 218, p. 144, Mar. 7, 1907.

D 1315. Idaho (1905): Under act of Congress, Feb. 18, 1881, and the amendment thereof, granting to the territory 72 sections of land for university purposes, and under Admission Act of Idaho (act July 3, 1890, 26 Stat., 216, c. 656), secs. 5, 8, constitution, art. 9, sec. 4, providing that the public school fund of the State shall consist of the proceeds of such lands as have been granted by the General Government and known as school lands, and lands acquired by gift from other persons, the interest on the proceeds of such lands can not be used for the erection or equipment of university buildings or buildings connected therewith, but can be used only in the support of said university, in the payment of current expenses and charges for conducting the same.—Roach v. Gooding, 81 P., 642.

1316. Iowa: Making appropriation for the state college of agriculture and mechanic arts, the state university, and the state normal school.

Making fixed annual appropriations for each of the several institutions.

Chaps. 212, 213, 214, and 215, Apr. 10, 1907.

1317. Kansas: Repealing sec. 9, chap. 135, Laws, 1873, and fixing the compensation of the board of regents of the university, of the state agricultural college, and of the state normal school.

Providing that the members of such boards shall receive \$5 per day of actual employment, and reimbursement for transportation and hotel expenses.

Chap. 206, Mar. 5, 1907.

1318. **Louisiana:** Resolving that public boards and officials shall be held to a rigid accountability in the matter of their expenditures, and that in no instance are they authorized to contract indebtedness beyond the amounts appropriated to them or to divert money appropriated by the legislature to one item of expense in order to make up deficiencies in another; resolving further that the chairman of the finance committee of the senate and the chairman of the appropriations committee of the house be requested and authorized to visit, prior to the next session, the various public institutions, in order to ascertain their needs and whether the letter and spirit of these resolutions have been observed.

Act No. 303, July 9, 1908.

1319. **Michigan:** Authorizing the withdrawal from sale of the agricultural college lands in the counties of Iosco and Alcona, such lands to be held as a forest reserve for the benefit of said college, and defining the permanent use thereof.

Reserve to be used for instruction of students and practice of forestry students. Contracts for timber. Fire protection. (See also act No. 93, May 16, 1907.)

Act No. 290, June 27, 1907.

1320. **Michigan:** Amending sec. 1, act No. 32, Acts, 1873, repealing act of Mar. 15, 1867 (secs. 3506 and 3507, Compiled Laws, 1871), as amended by act No. 102, Acts, 1890, extending aid to the university.

Increasing mill tax from one-fourth to three-eighths of a mill.

Act No. 303, June 28, 1907.

1321. **Minnesota:** See enactment No. 41.

1322. **Mississippi:** Making an appropriation for the support, repairs, additional buildings, improvements, and equipment of the industrial institute and college.

Conditions imposed upon appropriation for support fund that the annual salary for the president shall not be in excess of \$3,500, and that, from and after Sept. 30, 1908, "the principals of the various chairs and heads of departments shall receive the same salary as paid in 1906."

Sec. 1, chap. 7, Mar. 17, 1908.

1323. **Mississippi:** Making an appropriation for the support, repairs, additional buildings, improvements, and equipment of the agricultural and mechanical college.

Conditions imposed upon appropriation for support fund that the annual salary of the president shall not be in excess of \$3,500, and that, from and after Sept. 30, 1908, the principals of the various chairs and the heads of department shall receive the same salary as paid in 1906.

Sec. 1, chap. 8, Mar. 20, 1908.

1324. **Mississippi:** Proposing the reduction of the salaries of the chancellor of the university, the president of the industrial institute and college and the president of the agricultural and mechanical college.

"Whereas, the annual salary of the governor of the State of Mississippi is forty-five hundred dollars (\$4,500), and

"Whereas, the annual salaries of the judges of the supreme court of Mississippi is forty-five hundred dollars (\$4,500) and

"Whereas, the maximum salary paid to any other state official is thirty-five hundred dollars (\$3,500), and

"Whereas, the heads of the above three named institutions receive as annual salaries five thousand dollars (\$5,000), forty-five hundred dollars (\$4,500), and forty-five hundred dollars (\$4,500) respectively, and

"Whereas, the head of each said institution is furnished by the State an elegant home for himself and family, his salary thereby being increased so as to exceed that paid by the State to any of its public servants, not even excepting the judges of our supreme court, and

"Whereas, the salary paid the heads of the said institutions is entirely out of proportion to the responsibility and dignity of the position held when compared to salaries paid other public servants,

"Therefore be it resolved, That it is the sense of the house, the senate concurring therein, that the annual salary paid to the heads of said institutions shall be as follows:

"The chancellor of the university, thirty-five hundred dollars (\$3,500).

"The president of the Agricultural and Mechanical College of Mississippi, thirty-five hundred dollars (\$3,500).

"The president of the Industrial Institution and College of Mississippi, thirty-five hundred dollars (\$3,500)."

H. Con. Res. No. 46, chap. 290, Feb. 28, 1908.

1325. **Missouri:** Authorizing county courts to establish and maintain agricultural experiment stations, with the aid and cooperation of the state agricultural experiment station, and authorizing county courts to lease and purchase land for the use of such stations.

H. B. No. 691, p. 206, Mar. 18, 1907.

- D 1326. **Montana (1906):** Constitution, art. 11, sec. 12, provides that the funds of all state institutions of learning shall forever remain inviolate, and shall be respectively invested under such regulations as may be prescribed by law, and that the interest from such invested funds, etc., shall be devoted to the maintenance and perpetuation of such respective institutions; and laws, 1905, p. 5, sec. 5, provides that the state treasurer shall keep all moneys derived from the sale of timber from lands granted in aid of the state normal school in a separate fund, from which he shall pay the interest on certain normal school bonds as it accrues and the principal at maturity. *Held*, that as soon as the treasurer receives any money from the sale of normal school lands or timber, payable into the normal school fund, he is required to invest the same, and is authorized only to use the interest and the rents from leased lands for the maintenance of the school.—*State v. Rice*, 83 P., 874.

- D 1327. **Montana (1907):** The Montana legislature must act in subordination to the state constitution in executing the authority intrusted to it by Congress in enabling act Feb. 22, 1889, chap. 180, sec. 17, 25 Stat., 676, which granted certain public lands to the State for a normal school, to be held, appropriated, and disposed of exclusively for that purpose, in such manner as the legislature should provide. Judgment (*Mont.*, 1906) 83 P., 874, affirmed.—*State of Montana v. Rice*, 27 S. Ct., 281; 204 U. S., 261; 51 L. Ed., 490.

1328. **Nebraska:** Appropriating to the use of the state university the proceeds of the 1-mill university tax for the years 1907 and 1908 and so much of the proceeds of the 1-mill university tax for the years 1905 and 1906 as was not appropriated by the twenty-ninth session of the legislature.

Chap. 151, Apr. 9, 1907.

- D 1329. **Nebraska (1906):** The money donated by the United States to the University of Nebraska by act of Congress of March 2, 1887, chap. 314, sec. 1, 24 Stat., 440 (U. S. Comp. Stat., 1901, p. 3218), and acts supplemental thereto, known as the "experimental-station" fund, may be expended by the regents for the purposes expressed by the donation without any more specific legislative appropriation than that implied by constitution, art. 8, sec. 2, and contained in Comp. Stat., 1905, chap. 87, sec. 19 (*Cobbey's Ann. Stat.*, 1903, sec. 11215).—*State v. Searle*, 109 N. W., 770.



- D 1330. **Nebraska** (1907): Comp. Stat., 1905, chap. 87, sec. 19, providing that in the year 1899 and annually thereafter a tax of 1 mill on the dollar shall be levied on all of the taxable property in the State, the proceeds to constitute a fund for the maintenance of the university, was not repealed by implication of the general revenue law of 1903 (Laws, 1903, l. 135, chap. 73, sec. 134), authorizing the state board to levy a 5-mill tax, if necessary, for the state general fund and 1½ mills for the common school fund.—*State v. Searle*, 112 N. W., 380.

1331. **New Mexico**: See enactment No. 392.

1332. **New Mexico**: Providing funds and making appropriations for the fifty-ninth and sixtieth fiscal years.

Providing that members of the legislative assembly and the boards of county commissioners may select and send indigent pupils to higher educational institutions, prescribing conditions, and appropriating \$12,500 per annum.

Secs. 29-36, chap. 89, Mar. 21, 1907.

1333. **North Dakota**: See enactment No. 36.

1334. **North Dakota**: See enactment No. 427.

1335. **North Dakota**: Repealing secs. 1283 and 1284, Revised Codes, 1905, relative to expenditures and transfer of funds of state institutions, and enacting a substitute.

Making it unlawful for boards of trustees, commissioners, directors, regents, person, or persons having control or management of the state institutions, to expend amounts in excess of appropriation, and providing for monthly financial reports to the governor.

Chap. 234, Mar. 19, 1907.

1336. **North Dakota**: Amending secs. 838, 839, 840, 841, and 842, Revised Codes, 1905, relative to maintenance of state educational institutions.

Adding the academy of science and the industrial school to the list of state institutions. Reapportioning the amount derived from the 1-mill tax among the various institutions: University, thirty-three one-hundredths (formerly forty); agricultural college, twenty one-hundredths; Valley City normal school, fifteen one-hundredths (formerly twelve); Mayville normal school, thirteen one-hundredths (formerly twelve); school for the deaf, six one-hundredths (formerly thirteen); school of forestry, two one-hundredths (formerly three); academy of science, four one-hundredths; industrial school, seven one-hundredths.

Minor amendments of manner of appropriation and time of payment.

Chap. 107, Mar. 6, 1907.

1337. **North Dakota**: Requiring persons in charge of state institutions to make annual inventory of property therein.

Chap. 235, Mar. 8, 1907.

1338. **Oklahoma**: Making an appropriation for the expenses of the regents of the various state institutions.

Appropriating \$5,000. Fixing salary of members of boards of regents of the several state institutions at \$3 per diem, while actually engaged, maximum of five days in any month; mileage, 3 cents.

Chap. 5, S. B. 353, p. 79, May 22, 1908.

1339. **Oklahoma**: Relating to certain tax-levy funds accumulated to the credit of the agricultural and mechanical college.

Appropriating balance for the payment of premiums for fire insurance on buildings.

Chap. 5, H. B. 651, p. 84, May 26, 1908.

1340. **Oklahoma:** To provide for the division and distribution of the income, rentals, interest, and proceeds from certain lands among certain educational institutions, and making appropriations of such funds in pursuance thereof; designating a name by which such fund shall hereafter be known.

Stipulating basis of division of income from section 13 lands among the several state educational institutions.

Chap. 34, S. B. 232, p. 395, May 10, 1908.

1341. **Oregon:** Amending sec. 3529, B. and C., 1901, relative to appropriations for the support of the university.

Increasing permanent annual appropriation from \$47,500 to \$125,000.

Chap. 64, Feb. 20, 1907.

1342. **South Dakota:** Directing the board of regents of education to make selections of state or school lands for experimental-farm purposes.

Chap. 229, Mar. 7, 1907.

1343. **South Dakota:** Placing under the control of the board of regents of education the remainder of the educational and charitable lands for the support of substations for prosecuting experiments in agriculture.

Chap. 230, Mar. 7, 1907.

1344. **Tennessee:** See enactment No. 898.

1344. **Vermont:** See enactment No. 450.

1345. **Vermont:** Relating to appointment to scholarships in case of vacancy in a senatorship.

Authorizing other senator or senators of county in which such vacancy exists, or if none, the governor, to appoint and designate persons for scholarships in Norwich University, University of Vermont, and Middlebury College to the same number and in the same way as if no vacancy existed.

Act No. 61, Dec. 18, 1906.

1346. **Virginia:** Amending and reenacting sec. 1556, Code, 1904, relative to the University of Virginia.

University may not issue its obligations without consent of general assembly.

Chap. 257, Mar. 13, 1908.

1347. **Virginia:** Requiring all eleemosynary institutions, hospitals, colleges, universities, prisons, and reformatories to report monthly to the auditor of public accounts in detail the manner in which all funds received by said institutions from the Commonwealth are disbursed.

Chap. 260, Mar. 16, 1908.

1348. **Virginia:** Relating to student's loan fund.

Permitting State Female Normal School, the Virginia Agricultural and Mechanical College and Polytechnic Institute, the Virginia Military Institute, the University of Virginia, and William and Mary College to draw annually for five years from state treasury not to exceed 1 per cent of the annual appropriation to each of said institutions for the establishment of a fund to aid needy students. Conditions of aid.

Chap. 284 (Genl. Approp.), p. 430, Mar. 14, 1908.

1349. **Washington:** See enactment No. 437.

1350. **Washington:** See enactment No. 920.

1351. **Washington:** Amending secs. 1, 3, 4, 5, 6, 7, 9, 11, and 13, chap. 119, Laws, 1901, creating a state board of control, and providing for the government, control, and management of certain public institutions.

Providing that the state board of control shall visit annually the state educational institutions (university and normal schools) and examine the systems of accounting and financial management. Power to prescribe uniform system of accounting. Reports to governor (sec. 3).

Sec. 3, chap. 103, Mar. 14, 1907.

1352. **Washington:** Repealing sundry acts relative to the University of Washington, and creating a state university permanent fund and a state university current fund.

Chap. 108, Mar. 14, 1907.

- D 1353. **Washington (1907):** Act of Congress, March 2, 1867, chap. 150, 14 Stat., 426, which provides that "the legislative assemblies of the several territories of the United States shall not, after the passage of this act, grant private charters or especial privileges, but they may by general incorporation acts permit persons to associate themselves together as bodies corporate for mining, manufacturing, and other industrial pursuits," did not deprive a territorial legislature of power in amending an existing charter of an educational corporation to provide that its property shall be exempted from taxation.—Board of Trustees of Whitman College v. Berryman, 156 F., 112.

Under U. S. Rev. Stat., sec. 1850, providing that legislative acts of territories "shall be submitted to Congress, and if disapproved shall be null and of no effect," where such an act has been on the statute books for many years without any expression of disapproval by Congress, the implication is warranted that it was approved.—*Ibid.*

1354. **West Virginia:** Authorizing the appointment of a select legislative committee of five to report on all state institutions.

Plans to be presented for the grouping of like institutions under one management and for a uniform system of accounting.

Jt. res. No. 21, p. 430, Feb. 23, 1907.

1355. **Wisconsin:** Amending sec. 1, chap. 14, Laws, 1905 (sp. sess.), relative to university fund.

Authorizing until 1909 temporary transfer of not to exceed \$250,000 from general fund to university fund.

Sec. 2, chap. 428, June 27, 1907.

- D 1356. **Wyoming (1907):** No particular institutions are entitled to the grants and appropriations made respectively by act of Congress, July 2, 1862, chap. 130, 12 Stat., 503, granting lands or land scrip to the several States for the endowment, support, and maintenance of at least one college where the leading object shall be to teach agriculture and the mechanic arts, and by act of Congress, Aug. 30, 1890, chap. 841, 26 Stat., 417 (U. S. Comp. Stat., 1901, p. 3214), appropriating annually certain sums to each State and Territory for the more complete endowment and maintenance of such colleges, but the States take the property charged with the duty to devote it to the purpose named. Judgment (1906) 84 P., 90, 14 Wyo., 318, affirmed.—State of Wyoming v. Irvine, 27 S. Ct., 613; 206 U. S., 278; 51 L. Ed., 1063.

#### (c) State Universities and Colleges.

Of the legislation relating to state universities and colleges, the following enactments are selected for special mention: Alabama

\* By the provisions of the will of Col. William F. Vilas, who died at Madison, Wis., August 27, 1908, the University of Wisconsin is to be made the recipient of a fund which will ultimately amount to an immense sum—according to estimates, \$30,000,000. The Vilas bequest to a state institution may be considered as a memorable event in the development of state institutions of higher education. The conditions of the bequest are subject to acceptance by the legislature.

(1360), providing for the better equipment and support of the university; Kentucky (1370), reorganizing the state university; Washington (1388), providing for buildings for the university; Wisconsin (1391), abolishing tuition fees in the law school; Wisconsin (1392), establishing a college of medicine; and Wisconsin (1293, 1294), making appropriations for special construction purposes at the university.

**1357. Alabama:** Providing for the sale and other disposition by the board of trustees of the University of Alabama of such lands as have been or may be selected under and by virtue of an act of Congress entitled "An act to increase the endowment of the University of Alabama from the public lands in said State."

Approved Apr. 23, 1884, and ratifying and confirming former sales and dispositions.

Act No. 191, p. 246, Feb. 28, 1907. (Secs. 1886 and 1888, Code, 1907.)

**1358. Alabama:** Providing for funds for maintenance, repairs, improvements, apparatus, and additions to the medical college of Alabama.

Appropriating \$45,000. Annual appropriation of \$5,000 on account of free students—one from each county. Appropriation not available until control of college becomes vested in board of trustees of University of Alabama.

Act No. 282, p. 340, Mar. 4, 1907.

**1359. Alabama:** Dissolving the Medical College of Alabama and constituting the same as the medical department of the University of Alabama.

Act No. 280, p. 357, Mar. 6, 1907. (Sec. 1889, Code, 1907.)

**1860. Alabama:** Providing for the better equipment and support of the University of Alabama.

"Preamble: Whereas, reliable statistics disclose the fact that the University of Alabama is poorly equipped materially and inadequately supported financially; and whereas it is generally conceded that the limit practically of all development has been reached under the present meagre equipment and support; and whereas the State of Alabama can not afford longer to do less for her sons and daughters than is done by other States for theirs; therefore, etc."

Making annual extraordinary appropriation of \$25,000 to be expended in like manner to regular appropriations.

Making annual appropriation of \$100,000 for four years for improvements in buildings.

Act No. 335, p. 367, Mar. 6, 1907. (Secs. 1890-1892, Code, 1907.)

**1861. Arkansas:** Constituting a legislative committee of seven to investigate the affairs of the University of Arkansas.

H. Con. Res. No. 3, p. 1250, Feb. 12, 1907.

**1862. Arkansas:** Amending sec. 4271, Kirby's Digest, 1904, relative to the board of trustees of the University of Arkansas.

Making number of members (formerly six) equal to number of congressional districts. Superintendent of public instruction to be an ex officio member.

Act No. 87, Mar. 12, 1907.

**1863. Arkansas:** Amending act No. 274, Acts, 1905, relative to the sale of intoxicating liquors within 5 miles of the University of Arkansas.

Extending application of act so as to include bartering, so that it shall be "unlawful for any person to sell, barter, or give away, either for himself or another, or to procure or purchase for another, etc."

Increasing penalty so as to include imprisonment in addition to fine.

Act No. 278, May 8, 1907.

1364. **California:** Authorizing city of San Diego to convey a portion of La Jolla Park to regents of the University of California for the purposes of a biological station.

Chap. 3, Feb. 7, 1907.

1365. **California:** Adding art. 7 to chap. 1, tit. 3, part 3, Political Code, 1906, relative to Hastings College of Law.

Providing for officers and their appointment; for affiliation with the University of California; for the granting and issuing of diplomas, etc.

Chap. 335, Mar. 19, 1907.

1366. **Colorado:** Amending sec. 3449, General Statutes, 1893, relative to the University of Colorado.

Removing the requirements for the maintenance of a normal or a preparatory department after June 1, 1907.

Chap. 229, Apr. 15, 1907.

1367. **Georgia:** Providing for the meeting of the legislative committees on the University of Georgia and its branches for the purpose of visiting the various branch institutions while the legislature is not in session.

Con. Res. No. 19, p. 1012, Aug. 22, 1907.

1368. **Georgia:** Providing for the appointment of one additional trustee of the University of Georgia, to be a nonresident, native Georgian, and providing for qualifications, etc.

Act No. 478, p. 77, Aug. 18, 1906.

- D 1369. **Idaho (1907):** "The regents of the University of Idaho," created a corporation by the laws of the Territory and the constitution of the State, is a public corporation and an agency of the State, and as such is not subject to garnishment in the absence of a statute clearly evincing the purpose of the legislature to subject public corporations to such process; and the general provision that any "person" may be garnished is not sufficient for that purpose, although the word "person" is expressly defined by the statutes as including a corporation; such provisions being generally construed as restricted to private or business corporations.—*Moscow Hardware Co. v. Colson*, 158 F., 190.

1370. **Kentucky:** Changing the name of the agricultural and mechanical college to state university; amending parts of sundry laws with reference to said college, so as to make the whole apply to said university.

Providing for the establishment of departments of law and medicine. Modifying conditions of appointment of student beneficiaries. Providing for bipartisan board of trustees after 1910, and also for county teachers' examinations for students.

Chap. 3, Mar. 16, 1908.

1371. **Louisiana:** Amending and reenacting sec. 1, act No. 152, Acts, 1902, authorizing the board of supervisors of the state university and agricultural and mechanical college to determine the fees of students or cadets.

Permitting fees for students pursuing special, graduate, or professional courses of study.

Act No. 227, July 8, 1908.

1372. **Minnesota:** Authorizing regents of the university to deed certain land to the United States Government for the purposes of the Weather Bureau of the United States Department of Agriculture.

Chap. 12, Feb. 8, 1907. Duplicated by chap. 187, Apr. 13, 1907.



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**1873. Minnesota:** Providing for the care and management of Itasca State Park by the state forestry board, and permitting the maintenance therein of demonstration work in forestry under the direction of the board of regents of the state university, and appropriating money therefor.

Chap. 90, Apr. 4, 1907.

**1873a. Minnesota:** Amending sec. 1470, chap. 14, Revised Laws, 1905, relative to the board of regents of the university.

Fixing the term of office of present appointed regents. Providing that hereafter no appointed member, during the term for which he is appointed, shall hold any other office, elective or appointive, under the State of Minnesota.

Chap. 105, Apr. 5, 1907.

**1874. Minnesota:** Providing for the free education at the University of Minnesota of soldiers, residents of Minnesota, who enlisted in the United States Army or Navy for the war of 1898 between the United States of America and the Kingdom of Spain, and were honorably discharged therefrom.

Such persons entitled to pursue any course or courses without expense for tuition. Providing for refund of tuition already paid.

Chap. 158, Apr. 12, 1907.

**1875. Minnesota:** Authorizing board of regents of the university to acquire property and erect an engineering building and laboratory thereon.

Authorizing expenditure of \$250,000, and also a state tax levy of \$175,000 annually for four years.

Chap. 350, Apr. 23, 1907.

**1876. Mississippi:** Making an appropriation for the support of the University of Mississippi for the years 1908 and 1909 and for buildings and equipment needed.

Conditions imposed upon appropriation for support fund that the annual salary of chancellor shall not be in excess of \$3,500, and that from and after Sept. 30, 1908, the principals of the various chairs and heads of departments shall receive the same salary as that paid in 1906.

Sec. 1, chap. 5, Mar. 20, 1908.

**1877. Nebraska:** Making the state treasurer treasurer of the state university and custodian of its funds, and defining the duties of such treasurer.

Chap. 147, Mar. 27, 1907.

**1878. Nebraska:** Repealing, and reenacting with amendments, sec. 11216, Cobbe's Annotated Statutes, 1903, relative to meetings of the board of university regents.

All meetings of the board shall be open to the public. Providing for secret meetings and sessions. Public records to be made and kept of all meetings.

Chap. 148, Mar. 30, 1907.

**1879. Nevada:** Fixing the name of the state university.

Legal and corporate name to be University of Nevada.

Chap. 208, Mar. 29, 1907.

**1880. North Carolina:** Amending sec. 4271, Revised, 1905, relative to vacancies in board of trustees of the University of North Carolina, by reason of nonattendance.

Failure to be present at the regular meetings of the board for two (formerly four) successive years shall operate to produce vacancy.

Chap. 828, Mar. 8, 1907.

- D 1381. **Ohio (1904)**: The legislature having legislated with respect to the city of Toledo and referred to a certain institution called a "university" in the city of Toledo, and the term "university" having been used by the citizens generally and by the city legislature as applicable to such institution, New Code, sec. 217 (96 Ohio Laws, p. 91), providing that in any municipal corporation having a university supported by municipal taxation all the authority vested in or belonging to the corporation with respect to the management of the funds transferred to the corporation in trust or otherwise for the university, as well as the government and control of the university, shall be vested in and exercised by a board of directors, was applicable to the city of Toledo, and hence it was proper for the mayor to appoint a board of directors of the so-called "Toledo University."—*Waddick v. Merrell*, 26 Ohio Cir. Ct. R., 437.
1382. **Oklahoma**: Making an appropriation for the support and maintenance of the state university for the year July 1, 1908, to July 1, 1909. Other miscellaneous purposes.  
Approving and ratifying act of Congress of Feb. 25, 1907 (34 W. S. Stat., pt. 1, p. 332), granting certain section of land to the University of Oklahoma.  
Chap. 5, H. B. 693, p. 86, June 10, 1908.
1383. **Oklahoma**: Amending sec. 2, chap. 84, Statutes, 1893, relative to the government of the university.  
Increasing number of members of board of regents from six to ten.  
Chap. 77, S. B. 76, p. 669, Dec. 21, 1907.
- D 1384. **Oklahoma (1908)**: The term "public schools," as used in constitution, art. 13, sec. 5, providing that the supervision of instruction in the public schools shall be vested in a board of education, does not include in its meaning the University of Oklahoma.—*Regents of University of Oklahoma v. Board of Education*, 95 P. 429.  
Wilson's Rev. and Ann. Stat., 1903, chap. 77, art. 17, providing that the government of the University of Oklahoma should vest in a board of regents, was, by schedule to the constitution (sec. 2) providing that all laws in force in the Territory at the time of its admission as a State not locally inapplicable shall be extended to the State of Oklahoma, extended to and put in force in the State until it expires by its own limitations or is altered or repealed by law.—*Ibid.*  
There is no repugnancy between constitution, art. 13, sec. 5, providing that the supervision of instruction in the public schools shall be vested in a board of education, and Wilson's Rev. and Ann. Stat., 1903, chap. 77, art. 17, establishing the University of Oklahoma, and providing that the government of the university should vest in a board of regents.—*Ibid.*
1385. **Tennessee**: Appropriating \$100,000 to the University of Tennessee for the biennium 1907-8.  
Prescribing items of expenditure. Providing for three state scholarships for each member of the general assembly.  
Chap. 164, Mar. 26, 1907.
1386. **Utah**: Amending sec. 2300, Revised Statutes, 1898, relative to instruction in the University of Utah.  
Regulating entrance and tuition fees.  
Chap. 159, Mar. 25, 1907.
1387. **Virginia**: Amending and reenacting sec. 1541, Code, 1904, relative to the University of Virginia.  
Granting definite corporate power thereto.  
Chap. 266, Mar. 13, 1908.
1388. **Washington**: Providing for buildings for the University of Washington and the use thereof by the Alaska-Yukon-Pacific Exposition.  
Appropriating \$800,000 for the erection of an administration and auditorium, an engineering, and a chemical building. (See also chap. 4, Feb. 4, 1907.)  
Chap. 6, Feb. 4, 1907.

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1889. Wisconsin: See enactment No. 1203.
1890. Wisconsin: See enactment No. 1204.
1891. Wisconsin: Amending sec. 388, Statutes, 1898, as amended by chap. 344, Laws, 1901, relative to tuition fees at the state university.  
Abolishing tuition fees in the law school.  
Chap. 105, May 15, 1907.
1892. Wisconsin: Amending sec. 385, Statutes, 1898, relative to the University of Wisconsin.  
Authorizing establishment of college of medicine.  
Sec. 1, chap. 428, June 27, 1907.
1893. Wisconsin: Amending sec. 2, chap. 320, Laws, 1905, relative to appropriations for the University of Wisconsin.  
Continuing for five years annual appropriation of \$200,000 for construction and equipment.  
Sec. 3, chap. 428, June 27, 1907.
1894. Wisconsin: Creating and adding sec. 391n, Statutes, 1898, relative to appropriation for the University of Wisconsin.  
Appropriating \$100,000 annually for four years for construction and equipment for women's building. Requiring governor's approval as a condition.  
Sec. 4, chap. 428, June 27, 1907.

**Q. PROFESSIONAL AND HIGHER TECHNICAL EDUCATION.**

[See enactments under Section O: "Technical and Industrial Education—Elementary and Secondary."]

**(a) Teachers' Colleges and Normal Schools.**

[See enactments Nos. 898-921.]

- D 1895. Florida (1905): Laws, 1905, chap. 5384, is not unconstitutional because it authorizes the state board of education and the state board of control in joint session to determine the location of the University of the State of Florida and of the Florida Female College, the powers conferred not being a delegation of legislative powers.—State v. Bryan, 30 So., 929.
1896. Georgia: Establishing and organizing an agricultural, industrial, and normal college in South Georgia as a branch of the University of Georgia.  
Providing for the location of the college at Valdosta upon the donation of 50 acres of land by the city. Providing also for a board of trustees and for the powers and duties thereof. College to be a branch of the university.  
"SECTION 9. . . . That the one purpose of the normal department of this college shall be to train and equip teachers for the common schools of Georgia; *Provided*, that the general branches incident to and taught in the regular course of the main higher or collegiate course, as well as the general agricultural course, be also taught, and with equal strength as the normal branches; that the said local board of trustees are directed and required to arrange courses of study and select teachers with reference to rendering more efficient the rural teachers now in the schools of Georgia, and such others not now teachers as may be preparing for this work."

Act No. 449, p. 75, Aug. 18, 1906

1397. **Kentucky:** Making special appropriation for the benefit of the state university, the eastern state normal school, and the western state normal school.

For additional buildings, equipment, and grounds, \$200,000 for university and \$150,000 to each normal school. Additional annual appropriations, \$20,000 for university, \$20,000 for eastern state normal school, and \$30,000 for western state normal school.

Discontinuing normal department of university and establishing department of education of collegiate rank, entitling holders of degrees from such department to teach in the common and high schools of the State. Providing for teachers' certificates for those attending for one, two, or three years. Discontinuing subfreshman work.

Chap. 5, Mar. 16, 1908.

- D 1398. **Kentucky (1907):** Constitution, sec. 184, provides that state bonds issued in favor of the board of education and a specified amount of the stock of the Bank of Kentucky shall be held inviolate for the sustenance of the common school system; that no sum shall be raised for education other than in common schools until the question of taxation is submitted to the voters, provided that "the taxes now imposed for educational purposes and for the endowment and maintenance of the agricultural and mechanical college shall remain until changed by law." Sess. Acts, 1906, p. 393, chap. 102, establishes a system of state normal schools, and makes an appropriation for the benefit of such schools, the question of the appropriation not having been submitted to the voters. *Held*, that normal schools being among the institutions for which, under the proviso of sec. 184, the legislature is authorized to make appropriations without submitting the question to the voters, Sess. Acts, 1906, p. 393, chap. 102, is valid.—*Marsée v. Hager*, 101 S. W., 882; 31 Ky. Law Rep., 79.

1399. **Massachusetts:** Making appropriations for the Massachusetts Agricultural College.

Appropriating \$5,000 for establishing a normal department, for the purpose of giving instruction in the elements of agriculture to persons desiring to teach such elements in the public schools.

Chap. 28, Jan. 25, 1907.

1400. **North Dakota:** Amending secs. 1050 and 1051, Revised Codes, 1905, relative to University of North Dakota.

Designating the normal department of the university as "the teachers' college," and prescribing the purpose thereof as "to qualify for teaching in the common and high schools."

Chap. 100 (in part), Mar. 19, 1907.

1401. **North Dakota:** Amending secs. 1078, 1079, 1084, 1085, 1086, 1087, and 1090, Revised Codes, 1905, relative to state normal schools.

Substituting "president" for "principal" to designate the head of each school. Other minor amendments.

Chap. 240, Mar. 19, 1907.

#### (b) Agricultural Colleges.

[See enactments Nos. 1205-1212.]

The enactments in this section indicate the further extension and development of this valuable type of educational institution. While in the main the enactments deal with matters of general administrative importance, the following seem to be of larger interest: Illinois (1409), Iowa (1410), Louisiana (1413), Massachusetts (1415a), New Jersey (1422), New York (1426-1428), Ohio (1435), South Carolina (1438), Tennessee (1441), and Washington (1448).

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**1402. Alabama:** Amending act No. 187, p. 465, Laws, 1897, relative to appropriations to and management of agricultural schools and experiment stations.

Increasing annual appropriation from \$2,500 to \$4,500 for each of the nine schools and experiment stations.

Annual expenditures for farm improvements and agricultural experiments to be increased from \$500 to \$750 for each.

Act No. 146, p. 198, Mar. 2, 1907.

**1403. Colorado:** Amending secs. 26 and 53, General Statutes, 1883, relative to state board of agriculture.

Modifying election, term of office, and bonds of officers. Providing for method of payment of expenses of state board of agriculture, state agricultural college, and the experiment station.

Chap. 222, Apr. 3, 1907.

**1404. Connecticut:** See enactment No. 66.

**1405. Connecticut:** Amending sec. 4394, General Statutes, 1902, concerning trustees of the Connecticut Agricultural College.

Modifying qualifications and term of office of alumni representatives on board of trustees and mode of election.

Alumni trustees to be graduates of ten instead of five years' standing, and hold office four instead of two years. To be elected by "graduates of two years' standing."

Chap. 100, May 20, 1907.

**D 1406. Florida (1905):** Laws, 1905, chap. 5384, abolishing the Florida Agricultural College, does not impair the obligation of the contract made by the State in enacting Laws, 1870, p. 45, chap. 1763, and the acts amendatory thereof, whereby the State accepted the conditions and benefits of the grant contained in act of Congress July 2, 1862, chap. 130, 12 Stat., 503, relating to the maintenance of a college for instruction in agriculture.—*State v. Bryan*, 39 So., 920.

**1407. Georgia:** Making special appropriation of \$100,000 to the University of Georgia for the purpose of erecting and equipping buildings to be used as an agricultural college.

Providing for board of trustees and powers and duties thereof. Five hundred acres of land given by private individuals.

Act No. 358, p. 10, July 21, 1906.

**1408. Georgia:** Abolishing (Oct. 1, 1906) the present board of trustees of the North Georgia Agricultural College; providing a new board of trustees; investing such new board with powers for the control and management of the college; prescribing other powers and duties.

Act No. 544, p. 78, Aug. 21, 1906.

**1409. Illinois:** Extending the equipment and increasing the instruction in the college of agriculture of the University of Illinois, and providing for the extension of the agricultural experiment station and making appropriations therefor.

Appropriating \$152,500 for special enumerated purposes.

S. B. 214, p. 11, June 4, 1907.

**1410. Iowa:** Providing for agricultural extension work by the state college of agriculture and mechanic arts, and making appropriations therefor.

Extending and continuing provision of chap. 185, Laws, 1906.

Chap. 216, Apr. 13, 1907.

**1411. Kansas:** Concerning fees to be charged students in agricultural college.

Chap. 82, Mar. 7, 1907.



1412. **Louisiana:** Authorizing the establishment of a branch station of the state experiment station, designating the general character of the work to be done by said branch station, and providing for the management and control of same.

Such branch station to be controlled by state board of agriculture.

Act No. 113, July 1, 1908.

1413. **Louisiana:** Establishing a chair of forestry in the state university and agricultural and mechanical college at Baton Rouge.

Act No. 242, July 8, 1908.

1414. **Massachusetts:** *See enactment No. 1399.*

1415. **Massachusetts:** Changing the name of the Hatch experiment station of the Massachusetts Agricultural College to Massachusetts Agricultural Experiment Station.

Chap. 68, Feb. 5, 1907.

- 1415a. **Massachusetts:** Repealing chap. 414, Acts, 1904, and enacting a substitute relative to free scholarships at the Massachusetts Agricultural College.

Establishing 120 free scholarships and prescribing conditions therefor.

Chap. 460, Apr. 28, 1908. (Dec. 1, 1908.)

1416. **Michigan:** Authorizing and empowering the state board of agriculture to expend a sum not to exceed \$8,000 in celebrating and commemorating the fiftieth anniversary of the founding of the state agricultural college. (Occasion of visit of President Roosevelt.)

Jt. Res. No. 1, Feb. 7, 1907.

1417. **Michigan:** Authorizing state board of agriculture to convey to United States Government a tract of land to be used for the purpose of erecting a weather station observatory, or observatory and post-office.

Act No. 64, May 22, 1907.

1418. **Michigan:** Providing for the establishment of a department of veterinary science at the agricultural college.

Giving authority for establishment to state board of agriculture. Provisions for such. Degree of doctor of veterinary science to be granted.

Act No. 97, May 22, 1907.

1419. **Michigan:** Amending sec. 1, act No. 232, Acts, 1901, as amended by act No. 303, Acts, 1905, extending aid to the agricultural college.

Providing for appropriation of \$20,000 during the biennial period to improve, experiment with, and exhibit live stock and poultry. Authorizing experimentation with soils.

Act No. 266, June 27, 1907.

1420. **Minnesota:** Prohibiting the sale of intoxicating liquors and cigarettes within 1 mile of the university farm of the agricultural college of the university and providing penalties.

Chap. 878, Apr. 24, 1907.

1421. **Nevada:** Providing for certain changes in the control and management of the state agricultural experiment station farm.

Providing for board of control to consist of three members. Prescribing qualifications and compensation.

Chap. 27, Feb. 28, 1907.

1422. **New Jersey:** Supplementing chap. 17, Laws, 1902, relative to the establishment of a course in practical and scientific instruction in the art of clay working and ceramics in the state agricultural college.

Increasing annual appropriation by \$2,500.

Chap. 7, Mar. 14, 1907.

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1423. **New Jersey:** Supplementing chap. 55, Laws, 1905, providing for short courses in practical and scientific agriculture in the state agricultural college.  
Further appropriation of \$50,000. Additional annual appropriation of \$10,000.  
Chap. 43, Apr. 12, 1907.
1424. **New Jersey:** Providing for the furnishing and equipment of the engineering building at the state agricultural college.  
Appropriating \$20,000.  
Chap. 95, Apr. 6, 1908.
1425. **New Jersey:** Amending sec. 1, chap. 99, Laws, 1901, providing for scientific investigation of oyster propagation by agricultural experiment station.  
Providing for equipment and increasing annual appropriation from \$200 to \$1,200.  
Chap. 189, May 13, 1907.
1426. **New York:** Establishing a state school of agriculture at Alfred University.  
Chap. 200, May 6, 1908.
1427. **New York:** Establishing a state school of agriculture at Morrisville.  
Chap. 201, May 6, 1908.
1428. **New York:** Establishing a state school of agriculture at St. Lawrence University.  
Chap. 202, May 6, 1908.
1429. **North Carolina:** Amending subdiv. 20, chap. 89 (secs. 4207 to 4220), Revisal, 1905, relative to agricultural and mechanical college (white).  
Defining the corporate rights of the North Carolina College of Agriculture and Mechanic Arts. Reconstituting the board of trustees. Repealing sec. 4213, providing for a board of visitors. Sundry minor amendments.  
Chap. 406, Feb. 26, 1907.
1430. **North Dakota:** Amending sec. 1231, Revised Codes, 1905, relative to the school of forestry.  
Object of school to be "to furnish instruction and training contemplated in an agricultural high school, emphasizing those subjects that have a direct bearing on forestry and horticulture."  
Chap. 100 (in part), Mar. 19, 1907.
1431. **North Dakota:** Creating and establishing an agricultural experiment station in Cavalier County, providing for its management, and making an appropriation.  
Chap. 120, Mar. 19, 1907.
1432. **North Dakota:** Requiring biennial reports to be made by superintendents of subexperiment stations to the president of the agricultural college.  
Chap. 121, Mar. 12, 1907.
1433. **North Dakota:** Creating and establishing an irrigation and dry farming experiment station in Williams County, providing for its management, and making an appropriation.  
Chap. 122, Mar. 13, 1907.
1434. **North Dakota:** Making an annual appropriation (\$7,500) to agricultural experiment station for conducting demonstration farms and cooperating with farmers.  
Chap. 178, Mar. 5, 1907.

1435. **Ohio:** Repealing, and reenacting with amendment, sec. 9, act of May 1, 1878, as amended Mar. 16, 1894, sec. 4105-44. Revised Statutes, 1905, relative to the agricultural and mechanical college.  
Removing limitation of \$2,500 as the maximum annual salary for professors.

H. B. 928, p. 602, Apr. 15, 1908.

1436. **Oklahoma:** Providing for the organization of the board of agriculture, prescribing the manner of selecting the president thereof, defining their duties, fixing their compensation, and making an appropriation.

Board of agriculture to be board of regents for agricultural and mechanical colleges. Providing for farmers' institutes. Appropriating \$101,399.

Chap. 3, S. B. 112, p. 3, Mar. 3, 1908.

1437. **Oregon:** Amending sec. 3541, B. and C., 1901, relative to the agricultural college.

Increasing the continuing fund provided for the annual support of said college from \$25,000 to \$50,000.

Chap. 233, Feb. 26, 1907.

- 1438\*. **South Carolina:** Amending act (Feb. 25, 1904) relative to beneficiary scholarships in the Clemson Agricultural College.

Increase number of scholarships from 124 to 164.

Act No. 254, p. 538, Feb. 19, 1907.

1439. **South Carolina:** Requiring Clemson Agricultural and Mechanical College to pay to the board of directors of the state penitentiary hire for all convicts used.

Act No. 549, Feb. 17, 1908.

1440. **South Dakota:** Changing the name of the agricultural college.

Name changed to "State College of Agriculture and Mechanic Arts."

Chap. 12, Mar. 5, 1907.

1441. **Tennessee:** Creating and establishing an agricultural and horticultural experiment station and model farm combined in western Tennessee, providing for the erection of proper buildings, and providing for its equipment, management, and operation.

Providing that institution shall be under the direction of the agricultural department of the University of Tennessee, and for a commission for location. Defining scope of experimental and instructional work.

Chap. 88, Feb. 12, 1907.

1442. **Utah:** Providing that instruction in the agricultural college shall be free to residents of the State, and providing for an entrance fee for residents and nonresidents.

, Chap. 109, Mar. 14, 1907.

1443. **Utah:** Providing for investigations and demonstrations of arid land farming in various localities of the State. Repealing chap. 41, Laws, 1906.

Work to be under direction of agricultural college and to be continued for four years. Appropriating annually \$5,000.

Chap. 116, Mar. 14, 1907.

1444. **Vermont:** Aiding in the establishment and maintenance of a nursery for forest seedlings at the agricultural experiment station.

Annual appropriation of \$500 for five years.

Act, No. 15, Dec. 16, 1908.

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1445. Vermont: Changing the name of the state agricultural experiment station, established by act No. 73, Acts, 1896, to the Vermont Agricultural Experiment Station.

Act No. 425, Nov. 16, 1906.

1446. Virginia: Amending and reenacting act of Feb. 18, 1896, as amended by acts of Mar. 6, 1900, and May 20, 1903 (sec. 1599a, Code, 1904), relative to the protection of domestic animals, and authorizing and empowering the board of control of the experiment station of the agricultural and mechanical college to establish live stock quarantine lines, rules, and regulations, and to prescribe penalties for violating the same. Repealing secs. 2214, 2215, and 1599a, Code, 1904, dealing with same subject.

Chap. 203, Mar. 12, 1908.

D 1447. Virginia (1907): Constitution, sec. 183, subsec. "d" [Va. Code, 1904, p. cclxvii], held not to prevent an agricultural institute from selling its surplus agricultural products without depriving itself of its exemption from taxation.—Commonwealth v. Trustees of Hampton Normal and Agricultural Institute, 56 S. E., 594.

The sale of articles manufactured at the Hampton Normal and Agricultural Institute in the market of Newport News held not a sale within the same "community" in which the institute was located, within constitution, sec. 183, subsection "d" [Va. Code, 1904, p. cclxvii].—*Ibid.*

Neither a dairy farm maintained by the Hampton Normal and Agricultural Institute, nor the products thereof, held subject to taxation under constitution, sec. 183, subsec. "g" [Va. Code, 1904, p. cclxvii].—*Ibid.*

1448. Washington: Creating the office of state commissioner of horticulture, and providing for the promotion and protection of the fruit-growing and horticultural interests of the state.

Providing for annual inspectors' institutes to be held at the state agricultural college for improvement and conference (sec. 15).

Providing for examinations for county horticultural inspectors; technical questions to be prepared at state agricultural colleges (sec. 19).

Chap. 162, Mar. 13, 1907.

1449. Wyoming: Transferring the state penitentiary buildings and lands, near Laramie, to the university for the use of the agricultural college.

Appropriating \$5,000 for additions and repairs.

Chap. 11, Feb. 9, 1907.

(c) United States Grant.

1450. Alabama: Assenting to the provisions of the act of Congress of Mar. 10, 1906, providing for an increased annual appropriation for agricultural experiment stations.

H. J. R. No. 340, p. 475, July 13, 1907.

1451. Arizona: (*Ditto.*)

Secs. 1 and 3, chap. 30, Mar. 14, 1907.

1452. Colorado: (*Ditto.*)

Chap. 132, Apr. 3, 1907.

1453. Connecticut: (*Ditto.*)

Special act No. 145, May 1, 1907.

1454. Delaware: (*Ditto.*)

Jt. Res., chap. 269, Mar. 5, 1907.

1455. Florida: (*Ditto.*)

Chap. 5704 (act No. 109), June 3, 1907.

1456. Georgia: Assenting to the provisions of the act of Congress of Mar. 16, 1906, providing for an increased annual appropriation for agricultural experiment stations.  
Con. Res. No. 34, p. 1181, Aug. 18, 1906.
1457. Idaho: (*Ditto.*)  
S. B. 29, p. 22, Feb. 15, 1907.
1458. Illinois: (*Ditto.*)  
S. B. 118, p. 30, May 27, 1907.
1459. Indiana: (*Ditto.*)  
Chap. 300 (Jt. Res.), Mar. 12, 1907.
1460. Kansas: (*Ditto.*)  
Jt. Res., chap. 433, Mar. 7, 1907.
1461. Kentucky: (*Ditto.*)  
Chap. 11, Mar. 11, 1908.
1462. Maine: (*Ditto.*)  
Chap. 30, Mar. 6, 1907.
1463. Minnesota: (*Ditto.*)  
Chap. 101, Apr. 4, 1907.
1464. Montana: (*Ditto.*)  
Chap. 64, Mar. 2, 1907.
1465. Nebraska: (*Ditto.*)  
Chap. 149, Apr. 6, 1907.
1466. Nevada: (*Ditto.*)  
Chap. 209, Mar. 20, 1907.
1467. New Mexico: (*Ditto.*)  
Chap. 13, Mar. 7, 1907.
1468. North Carolina: (*Ditto.*)  
Chap. 793, Mar. 8, 1907.
1469. North Carolina: Authorizing agricultural colleges of State to receive moneys appropriated by United States Congress, Mar. 4, 1907.  
Chap. 901, Mar. 11, 1907.
1470. Ohio: Assenting to the provisions of the act of Congress of Mar. 16, 1906, providing for an increased annual appropriation for agricultural experiment stations.  
H. Jt. Res. No. 109, p. 634, Apr. 8, 1908.
1471. Oklahoma: (*Ditto.*)  
S. Con. Res. No. 45, p. 787, May 5, 1908.
1472. Pennsylvania: (*Ditto.*)  
Act No. 153, May 8, 1907.
1473. Tennessee: (*Ditto.*)  
Chap. 350, Apr. 11, 1907.
1474. Texas: (*Ditto.*)  
S. Con. Res. No. 18, p. 483, Apr. 17, 1907.
1475. Utah: (*Ditto.*)  
Chap. 27, Mar. 11, 1907.
1476. Vermont: (*Ditto.*)  
Jt. Res. No. 458, Act. 29, 1906.
1477. Virginia: (*Ditto.*)  
Chap. 26, Feb. 8, 1908.
1478. Washington: (*Ditto.*)  
Chap. 198, Mar. 15, 1907.
1479. Wyoming: (*Ditto.*)  
Chap. 93, Feb. 21, 1907.



## (d) Mining Schools.

1480. **North Dakota:** Fostering the development of mineral and allied industries by providing for experimentation, encouragement, publicity, and practical tests under the direction of the school of mines.

Chap. 236, Mar. 4, 1907.

1481. **Oklahoma:** Creating a state school of mines and metallurgy for the purpose of teaching the scientific knowledge of mining and metallurgy in the State of Oklahoma.

Locating school at Wilburton, conditioned upon the donation of a site of 40 acres by citizens. Defining purpose of school, granting power to confer degrees, providing for control, and appropriating \$15,000.

Chap. 70, H. B. 621, p. 621, May 28, 1908.

1482. **Virginia:** Establishing a school of mines as a department of the Virginia Agricultural and Mechanical College and Polytechnic Institute.

Appropriating \$8,000 for equipment.

Chap. 247, Mar. 13, 1908.

## (e) Military Schools.

- D 1483. **Florida (1905):** Laws, 1905, chap. 5384, is not unconstitutional or in conflict with act Congress July 2, 1862, chap. 130; 12 Stat., 503, donating to the State a fund for the establishment of a college in which instruction is given in agriculture and the mechanical arts and military tactics are taught, because such chapter provides that the state board of education and the state board of control shall include military tactics if they deem the same requisite and proper as one of the branches in the university of the State.—State v. Bryan, 39 So., 929.

1484. **Missouri:** Repealing, and reenacting with amendments, sec. 10562, chap. 171, Revised Statutes, 1899, relative to the military department of the university.

Authorizing governor to appoint ten cadets from the State at large.

H. B. 107, p. 450, Mar. 19, 1907.

1485. **South Carolina:** Authorizing and empowering the South Carolina Military Academy to execute to the United States necessary bond for ordnance and ordnance stores.

Act No. 591, Feb. 24, 1908.

1486. **Tennessee:** Declaring certain institutions of learning where military science is taught, and which grade the military department equally with others and make proficiency therein a requisite for securing a diploma, to be a post of the national guard.

\* Chap. 481, Apr. 15, 1907.

1487. **Vermont:** Amending sec. 4873, chap. 186, Statutes, 1904, relative to military organizations of Norwich University.

Extending to all military organizations of Norwich University provisions exempting artillery organization of students from regulations applying to state militia.

Raising rank of professor of military science and tactics from captain to major.

Act No. 141, Nov. 22, 1906.

## (f) Miscellaneous Technical.

1488. **Alabama:** Aiding and encouraging technical education by providing for the erection and equipment of buildings and for increased facilities at the Alabama Polytechnic Institute.

Making annual appropriation of \$56,500 for four years. Specifying expenditure.

Act No. 162, p. 236, Mar. 2, 1907.

1489. **North Carolina:** Establishing a school of technology at Spray, and providing for its maintenance.

Creating and incorporating board of trustees, designating terms and powers of board. Defining purposes of school; to be for white pupils only. Providing for annual appropriation for maintenance and the appointment of free students.

Chap. 858, Mar. 9, 1907.

1490. **Rhode Island:** Amending sec. 6, chap. 67, General Laws, 1896, relative to state beneficiaries at the Rhode Island School of Design.

Fixing annual appropriation for payment of tuition fee at \$8,000.

Chap. 1445, Apr. 19, 1907.

## R. PRIVATE AND ENDOWED HIGHER INSTITUTIONS—STATE CONTROL.

With but one exception the enactments in this section seem to be of minor and local importance. That of Ohio (1506) would seem to be a move for the more efficient control of degree-granting institutions, a matter which is certainly deserving of attention on the part of many other legislatures.

1491. **California:** Amending sec. 1, chap. 9, Statutes, 1901, relative to the exemption from taxation of a portion of the property held in trust for the benefit of Leland Stanford Junior University.

Providing that no tuition fees shall be charged residents of the State amended so as to exclude professional and engineering courses.

Chap. 94, Mar. 6, 1907.

1492. **California:** Adding sec. 2800, Code of Civil Procedure, 1900, relative to graduates of the University of Southern California college of law being admitted to practice without examination.

Chap. 438, Mar. 21, 1907.

1493. **Colorado:** Providing for the relief of the George W. Clayton College, and extending, adding to, and defining the powers and provisions of the will of the founder in order to enable the purposes thereof to be carried out.

Extending time within which property must be sold five years beyond the limit set in the will.

Changing provisions to meet new conditions arising from formation of city and county of Denver.

Chap. 118, Apr. 3, 1907.

1494. **Connecticut:** Amending and revising the charter of Wesleyan University granted May, 1831, by tit. 12, Special Acts, 1831; as amended and revised June 9, 1870; as amended Feb. 20, 1879; as amended by act No. 460, Special Acts, May 26, 1893, and as amended by act No. 376, Special Acts, June 29, 1905.

Number of trustees increased from 40 to 55, and number elected by alumni from 5 to 10.

Granting privileges and exemptions enjoyed by Yale College. Stipulating that no denominational test be imposed on trustees, officers, teachers, students. Other minor changes.

Special Acts, No. 326, June 22, 1907.

1495. **Indiana:** "Authorizing universities, colleges, or other institutions of learning heretofore organized under general laws of the State of Indiana or created by special charters, or hereafter organized under the laws of the State of Indiana, to provide for the election of their board of trustees, in whole or in part, by church or ecclesiastical bodies, in part by the graduates therefrom and in part by the board of trustees, and to provide for the division of its funds into separate classes under a separate manager, custodian, or treasurer for each fund, and providing a method for effecting such ends."

Chap. 79, Feb. 27, 1907.

1496. **Indiana:** Permitting the establishment and incorporation of schools, academies, colleges, and other institutions of learning, and providing for the management of the same.

"SECTION 5. Any institution of learning established under this act shall have the power to establish departments of law, medicine, gymnastics, letters and science, theory and practice of physical training, anatomy, physiology and hygiene, and such other departments as may be appropriate to such institution, and it may confer academical degrees and titles upon the graduates of any course of study provided for in said institution."

Chap. 141, Mar. 9, 1907.

1497. **Indiana:** Providing for the issuing of bonds for the liquidation and payment of claim of Vincennes University.

Bonds to the amount of \$120,548 to be issued in favor of Vincennes University on account of lands granted by Congress in 1804 and appropriated by the State in 1820. Vetoed by governor.

Chap. 244, Mar. 9, 1907.

1498. **Iowa:** Amending sec. 1304, Code, 1897, relative to exemptions from taxation.

Providing that real estate owned by an educational institution of the State as part of its endowment fund shall not be taxed.

Chap. 54, Apr. 1, 1907.

1499. **Kentucky:** Amending act of Jan. 15, 1858, changing name of Bacon College to Kentucky University, and amending act of Feb. 28, 1865, consolidating Kentucky University and Transylvania University under the name of Kentucky University.

Name of Kentucky University changed to Transylvania University so as to avoid confusion with the State University.

Chap. 60, Mar. 20, 1908.

1500. **Maine:** Repealing chap. 6, Private and Special Laws, 1891, relative to charter of Bates College.

Removing requirement of membership in the Free Baptist denomination imposed upon the president, the majority of the board of fellows, and board of overseers.

Chap. 108, Private and Special Laws, Feb. 22, 1907.

1501. **Michigan:** Amending act No. 72, Acts, 1857, relative to Wesleyan Seminary at Albion and the Albion Female Collegiate Institute.  
Incorporating Albion College; providing for organization and powers of board of trustees.

Act No. 79, May 8, 1907.

1502. **Michigan:** Relative to gifts for religious, educational, charitable, and benevolent purposes.

Validating such gifts, grants, etc., under certain conditions. Providing for jurisdiction of court and control through trustee.

Act No. 122, June 4, 1907.

1503. **Minnesota:** Providing for the acceptance and administration of gifts, bequests, devises, and endowments in aid of or for the benefit of educational, charitable, and other institutions maintained by the State.

Chap. 170, Apr. 12, 1907.

1504. **New Hampshire:** Appropriating money to aid Dartmouth College in the education of New Hampshire students.

Appropriating \$20,000 annually for two years.

Jt. Res. Chap. 158, Mar. 28, 1907.

1505. **New Jersey:** Supplementing an act concerning corporations. (Revision of 1896.)

Providing for the dissolution of certain educational corporations in order for all owners of the property held by them to realize upon and secure the same.

Chap. 75, Apr. 2, 1908.

- 1506\*. **Ohio:** Repealing, and reenacting with amendments and additions, sec. 3726, Revised Statutes (1905), relative to the conferring of degrees by colleges and universities.

Minimum property valuation of institutions authorized to grant degrees increased to \$25,000 (formerly \$5,000). Adding provisions that degree-granting institutions must present to secretary of state certificate of state commissioner of common schools as to course of study, equipment, number of students, etc. Charter institutions failing to file certificate by June 1, 1908, to have charters revoked.

S. B. 591, p. 262, May 1, 1908.

1507. **Pennsylvania:** Amending act No. 429, Acts, 1905, making an appropriation for the erection of a home or school for indigent orphans, to be called the Thaddeus Stevens Industrial and Reform School of Pennsylvania, in which school provision shall be made for giving instruction in reading, writing, arithmetic, drawing, duties of citizenship, elementary manual training, the elements of farming, and other requisite branches.

Changing name from Thaddeus Stevens Industrial and Reform School of Pennsylvania to Thaddeus Stevens Industrial School of Pennsylvania.

Act No. 76, Apr. 15, 1907.

1508. **Tennessee:** Empowering and authorizing boards of trustees of academies and small colleges which no longer are used for the purposes originally intended to transfer the properties of said academies and small colleges to counties and county boards of education or county high school boards.

Chap. 000, Apr. 15, 1907.

1509. **Vermont:** Amending sec. 5, act No. 37, Acts, 1834, as amended by sec. 1, act No. 91, Acts, 1886, incorporating and establishing the Norwich University at Norwich.

Adding provision that no rules of a sectarian character either in religion or politics shall be imposed or adopted, and that no student shall be questioned or controlled on account of religious or political beliefs.

Act No. 350, Nov. 19, 1906.

1510. **Virginia:** Authorizing and empowering educational institutions to sell and convey real estate in excess of 1,000 acres under certain conditions.

Chap. 29, Feb. 8, 1906.

1511. **Virginia:** Authorizing and empowering the trustees of Ann Smith Academy, a body corporate, by an act of Jan. 7, 1898, to give, transfer, sell, convey, or exchange all of its property, real and personal, for educational purposes.

Chap. 170, Mar. 11, 1908.

1512. **West Virginia:** Amending the charter of Storer College (sec. 3, chap. 117, Acts, 1868, as amended Feb. 23, 1883), relative to board of trustees. Removing condition that two-thirds of trustees (25) shall be members of Free Baptist denomination.

Chap. 46, Feb. 20, 1907.

1513. **Wisconsin:** Creating sec. 1784m, Statutes, 1898, relative to the establishment of corporations for the maintenance of schools.

Authorizing any university or college, upon resolution of board of trustees of both institutions, to receive in connection with it, as a branch, any other university or college; also to manage and control the same, and buy its property.

Chap. 68, May 1, 1907.

## S. LIBRARIES.

### (a) Public School Libraries.

That the library is an essential part of the equipment and activities of the public school is becoming more and more recognized, and the marked and decided tendency of recent legislation is to provide for the general establishment and the adequate support of public school libraries. This tendency has been particularly evident in recent years in certain of the Southern States, and finds its continuance in the biennium just closed in the legislation of North Carolina (1518), South Carolina (1523), and Virginia (1526). The enactments in California (1514), in Nebraska (1517), in North Dakota (1519), and in Utah (1524, 1525), stand out as bits of constructive library legislation.

1514. **California:** Amending secs. 1715 and 1716, Political Code, 1900, relative to school libraries.

Providing for greater accessibility of school libraries. Wherever practicable, to be accessible during vacation and nonschool days. In cities, school library may be kept as part of public library. School libraries to be free to members of all families residing in the district. Libraries to be catalogued, indexed, and classified.

Chap. 6, Feb. 15, 1907.



- D 1515. **Indiana** (1906): A school city, exercising its authority over the public library of the city by virtue of law, has no right to complain that the management of the library has been taken over by a board of trustees appointed by a majority vote of the members of the common council as authorized by Acts, 1903, p. 193, chap. 102 (Burns's Ann. St. Supp., 1905, secs. 4983h et seq.).—School City of Marion v. Forrest, 78 N. E., 187.
1516. **Iowa**: Authorizing boards of trustees of free public libraries to unite with any local county historical association for the preservation and protection of articles of a historical or an educational nature gathered by such association, and to expend money for the proper care of such collection.  
Additional to sec. 729, Code Supplement, 1902.  
Chap. 33, Mar. 27, 1907.
- 1517\*. **Nebraska**: Providing for a library in every public school district within the State.  
Providing for creation of district library fund equal annually to 10 cents per pupil. Excepting school district containing free public library.  
Chap. 132, Mar. 2, 1907.
1518. **North Carolina**: Amending sec. 4177, chap. 85, Revisal, 1905, relative to enlargement of public school libraries.  
Providing that appropriations by county board of education shall be made from general school fund instead of from district school fund.  
Sec. 1k, chap. 835, Mar. 9, 1907.
- 1519\*. **North Dakota**: Creating a state library commission, defining its duties, and providing for an appropriation for its maintenance.  
Chap. 243, Mar. 2, 1907.
1520. **Ohio**: Repealing sec. 3, S. B. S. p. 8, Laws, 1902, extra sess. (sec. 3908-3; Revised Statutes, 1905), authorizing boards of education to provide library privileges for city, village, and special school districts.  
S. B. 234, p. 65, Apr. 7, 1908.
1521. **Pennsylvania**: Supplementing act No. 201, Laws, 1895, establishing free public libraries in the several school districts, except in cities of first and second classes.  
Authorizing school districts of townships and boroughs, adjoining cities of third class, to join in establishing and maintaining free public libraries or to join in aiding those otherwise established.  
Act No. 115, May 1, 1907.
1522. **Pennsylvania**: Providing for the establishment and maintenance of free public libraries, on a permanent basis, in all municipalities throughout the State (except in cities of first, second, and third classes), townships, and counties, in same manner as is now provided in case of boroughs.  
Tax limited to 1 mill.  
Act No. 290, June 6, 1907.
1523. **South Carolina**: Amending sec. 7, act No. 442, Acts, 1905, relative to the establishment of libraries in the public schools of rural districts.  
Permitting state board of education to use unexpended balances to pay transportation, drayage, etc., in the circulation of traveling libraries and cabinets of museum specimens donated or loaned to the State. Permitting also balances to be used for prizes for rural school improvement.  
Act No. 447, Feb. 25, 1908.

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1524. **Utah:** Amending sec. 2102, Revised Statutes, 1898, relative to the Utah School for the Blind.

Providing for a circulating library for the blind of the State.

Chap. 80, Mar. 14, 1907.

1525. **Utah:** Amending sec. 1815, Revised Statutes, 1898, as amended by chap. 37, Laws, 1901, and as amended by chap. 83, Laws, 1905, relative to the powers and duties of district school boards.

Providing for a public school library fund and prescribing the manner in which the same shall be expended.

Chap. 102, Mar. 14, 1907.

1526. **Virginia:** Providing for the establishment of libraries in the public schools of rural districts, and appropriating money therefor.

Providing that private subscriptions in the minimum sum of \$15 shall be duplicated by appropriations by district school boards, such appropriations for no more than five libraries in any one year. Providing for selection of books, management of library, etc. Appropriating \$5,000. State aid of \$10 for each library thus established.

Chap. 316, Mar. 14, 1908.

1527. **Wyoming:** See enactment No. 788.

T. EDUCATION OF DEFECTIVES.

The development of the spirit of humanitarianism, with its resulting influence upon the public school system so as to provide for the education of the defective and delinquent classes of children, is among the interesting phenomena of present day social and educational activity. The following enactments, relating to the education of the deaf and dumb, blind, crippled and deformed, and feeble-minded are evidence of the continued intent of certain States to leave no child without the scope of the influences of the public school, and are consequently of a broadly significant character.

(a) General.

1528. **North Carolina:** Amending chap. 89, sec. 4199, Revised Laws, 1905, relative to the relief of indigent deaf and blind children attending school.

Providing for allowance for clothing.

Chap. 69, Jan. 31, 1908 (sp. sess.).

1529. **Vermont:** Amending secs. 854 and 856, Statutes, 1894, the latter as amended by sec. 1, act No. 30, Acts, 1898, and sec. 1, act No. 51, Acts, 1904, also secs. 858, 860, and 861, Statutes, 1894, relative to the instruction of the deaf, dumb, blind, idiotic, feeble-minded, or epileptic children of indigent parents.

Including deaf, dumb, blind, and epileptic children of indigent parents within provisions of act. Constituting governor as commissioner for their instruction. Epileptic children included as beneficiaries.

Act No. 55, Nov. 9, 1906.

1530. **Vermont:** Providing for further instruction of the deaf, dumb, blind, idiotic, and feeble-minded.

Appropriating for expenditure, under the direction of the governor, an additional sum of \$2,500 for the care, education, and training of deaf, dumb, blind, idiotic, feeble-minded, or epileptic children of indigent parents who have been discharged from state institutions.

Act No. 57, Nov. 19, 1906.

(b) Deaf and Dumb.

1531. **Alabama:** Amending sec. 3700, Code, 1896, as amended by sec. 3, act No. 15, p. 23, Laws, 1901, as amended by act No. 28, p. 45, Laws, 1903 (sec. 1935, Code, 1907), relative to board of trustees of Alabama Institute for the Deaf.

Modifying in minor manner size and constitution of board.

Act No. 801, p. 911, Aug. 9, 1907. (Sec. 1935, Code, 1907.)

1532. **Arkansas:** Providing for the support, maintenance, and government of the Arkansas Deaf Mute Institute.

Defining qualifications of teachers. Prohibiting nepotism. Providing for impartial hearing for discharged employees.

Act No. 316 (in part), May 14, 1907.

1533. **Delaware:** Amending sec. 4, chap. 58, Laws, 1875, as amended by chap. 245, Laws, 1890, relative to period of extension of the term of indigent deaf, dumb, and blind in institutions for instruction of such indigents.

Extending period from five to seven years.

Chap. 143, Mar. 15, 1907.

1534. **Idaho:** Repealing act p. 226, Laws, 1891, and H. B. No. 69, p. 162, Laws, 1899, and H. B. No. 359, p. 462, Laws, 1899, relative to the education of the deaf, dumb, and blind, and enacting a substitute.

Empowering and authorizing state board of education to make necessary arrangements for the education of the deaf, dumb, and blind of the State at the expense of the State. Providing for census of deaf, dumb, and blind persons. Appropriating \$32,000.

H. B. No. 142, p. 240, Mar. 12, 1907.

1535. **Louisiana:** Changing the name of the "Louisiana Institute for the Deaf, and Dumb" to the "Louisiana State School for the Deaf."

Act No. 239, July 8, 1908.

1536. **Michigan:** Amending sec. 8, act No. 116, Acts, 1893 (sec. 1897, Compiled Laws, 1897), relative to the superintendent of the Michigan School for the Deaf.

Requiring superintendent to have had experience and knowledge in the teaching of deaf children.

Act No. 202, June 22, 1907.

1537. **Minnesota:** See enactment No. 1046.

1538. **Nevada:** Amending act of March 2, 1889 (secs. 1386 and 1388, Compiled Laws, 1900), relative to the education of the deaf and dumb and blind.

Providing for arrangements with Utah institutions in addition to California institutions for the education of such persons. Sundry minor amendments.

Chap. 175, Mar. 29, 1907.

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1539. **North Carolina:** Limiting admission of deaf children to the school for the deaf and dumb.

White deaf children between ages of 8 and 23 years of age, bona fide residents of State for period of two years, eligible to free tuition and maintenance.

Rules for the admission of nonresidents.

Chap. 929, Mar. 11, 1907.

1540. **Ohio:** Repealing and reenacting with amendments, secs. 659, 660, and 661, Revised Statutes (1905), and sec. 1, S. B. 87, p. 75, Laws, 1898 (sec. 659-1, Revised Statutes, 1905), relative to the education of the deaf and blind.

Changing name to "State School for the Deaf," and extending the time which pupils may remain in said school.

H. R. 1038, p. 598, Mar. 31, 1908.

1541. **Oklahoma:** Creating and establishing a school for the education of the deaf and dumb of the state.

Providing for name, location, purpose, and management of school. Also conditions of admission of pupils.

Chap. 70, S. B. 342, p. 617, May 14, 1908.

1542. **Utah:** Amending sec. 2104, Revised Statutes, 1898, relative to the Utah State School for the Deaf and Dumb.

Changing name to "Utah School for the Deaf."

Chap. 12, Feb. 28, 1907.

1543. **Utah:** Amending sec. 2117, Revised Statutes, 1898, relative to the education of deaf and dumb or blind children.

Applying provision of law to any deaf, mute, or blind child between ages of 8 and 18 years (formerly any *totally* deaf, mute, or blind child between ages of 8 and 18 years). Minor amendments adapting language of law so as to incorporate changed name of school for the deaf (see chap. 12, enactment No. 1542).

Chap. 62, Mar. 14, 1907.

1544. **Utah:** Amending secs. 2101 and 2103, Revised Statutes, 1898, relative to the school for the blind.

Adapting language in accord with chap. 12, Feb. 28, 1908, changing name of school for deaf and dumb (see enactment No. 1542).

Chap. 101, Mar. 14, 1907.

1545. **Vermont:** Amending secs. 803 and 804, chap. 46, Statutes, 1894, relative to the instruction of the deaf, dumb, and blind.

Extending provisions relative to education of one or more blind children over 14 years of age in state institutions to include deaf and dumb children.

Act No. 53, Nov. 13, 1906.

1546. **Wisconsin:** Amending sec. 578, Statutes, 1898, as amended by chap. 80, Laws, 1903; also, sec. 579a, as created by chap. 422, Laws, 1901; creating secs. 579m and 579n, relative to the education of deaf and dumb.

Applying provisions of acts to deaf persons (formerly, deaf mutes). Requiring officers of school districts maintaining day schools for the deaf to report to state superintendent alone (formerly, state board of control also). Creating surplus fund of unexpended annual balances.

• Providing for compulsory education of deaf children 6 to 18 years of age. Penalties for violation.

Chap. 128, May 22, 1907.

## (c) Blind.

1547. **Arkansas:** Providing for the support and maintenance of, and necessary repairs for the Arkansas school for the blind.

Sundry provisions regarding employment and discharge of teachers, officers, and employes. Fixing qualifications of teachers (effective Oct. 1, 1907). Prohibiting nepotism.

Act No. 324 (in part), May 14, 1907.

1548. **Delaware:** Making provision for the education and training of the indigent adult blind persons of the State.

Providing for the appointment and compensation of an instructor of adult indigent blind persons, and for the manner of application for said instruction.

Chap. 143, Mar. 9, 1907.

1549. **Louisiana:** Changing the name of the "Louisiana Institute for the Blind" to the "Louisiana State School for the Blind."

Act No. 238, July 8, 1908.

1550. **Maine:** Making appropriation for the Maine Institution for the Blind.

Appropriating \$20,000 for 1907 and a like sum for 1908, to be used for maintenance, and particularly for giving to blind persons over 18 years of age practical instruction in some occupation conducive to self-support.

Resolves, chap. 14, Feb. 6, 1907.

1551. **Massachusetts:** Amending chap. 385, Acts, 1906, relative to the establishment of the Massachusetts commission for the blind.

Providing that a sum not to exceed \$5,000 may be advanced to the commission as a working capital for its industries.

Chap. 173, Mar. 6, 1907.

1552. **Michigan:** Amending secs. 7 and 9, act No. 123, Acts, 1893 (secs. 2015 and 2017, Compiled Laws, 1897), relative to admission, dismissal, and attendance of the Michigan School for the Blind.

Providing for the transfer of pupils over 18 years of age to the Michigan Employment Institution for the Blind. Providing for enumeration of blind children in school census; prescribing duties of enumerators. Children between the ages of 7 and 19 years who are blind, or whose vision is so defective as to make it impossible to have them properly educated in the schools for the seeing, to be sent to the Michigan School for the Blind. Exceptions. Provisions for enforcement, for indigent cases, and for violations.

Act No. 116, May 28, 1907.

1553. **Missouri:** Amending sec. 7752, art. 4, chap. 118, Revised Statutes, 1899, relative to Missouri School for the Blind.

Changing the age limit of those entitled to admission (formerly 9 to 25) to 6 to 20. Extending period of benefits from 8 years to 12 years.

H. B. No. 450, p. 305, Mar. 19, 1907.

1554. **New Jersey:** Authorizing the appointment of a commission to investigate and report upon the condition of the blind residents of the State, to investigate the methods by which other States provide for the blind, and to recommend remedies by which the condition of the blind in the State may be ameliorated.

Jt. Res. No. 8, Apr. 9, 1908.

1555. **New Mexico:** Amending sec. 8, chap. 2, Laws, 1903, relative to admission to the institute for the blind.

Raising maximum age of admission from 21 to 25 for the four succeeding years.

Chap. 4, Feb. 21, 1907.



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1556. **North Carolina:** Compelling blind children to attend school.

Blind children between 7 and 17 years of age to attend state school for blind and deaf. Prescribing duties of parents and guardians and fixing penalties for violations. School census to include blind children.

Chap. 141, Feb. 1, 1908 (sp. sess.). (Sept. 1, 1908.)

1557. **Wisconsin:** Creating sec. 579a, Statutes, 1898, relative to the education of the blind.

Providing for the establishment and maintenance of schools for the blind in a similar manner to schools for the deaf as provided for by secs. 578, 579a, 579m, and 579n, Statutes (Chap. 128, Laws, 1907). Authorizing state superintendent to instruct inspector of day schools for the deaf to inspect day schools for the blind without additional compensation.

Chap. 551, July 10, 1907.

(d) Crippled and Deformed.

1558. **Massachusetts:** Changing the name of the "Massachusetts School and Home for Crippled and Deformed Children" to the "Massachusetts Hospital School."

Chap. 226, Mar. 20, 1907.

(e) Feeble-Minded.

1559. **Maine:** Providing for the care and education of the feeble-minded.

Providing for the establishment and maintenance of a school, to be known as the "Maine School for Feeble-Minded," for the education and care of the idiotic and feeble-minded, 6 years of age and upward, who are at present supported by towns in the State, and who are capable of being benefited by school instruction.

Providing for trustees, fixing the compensation, and defining the powers and duties thereof.

Providing for the mode of committal and admittance of persons to said school.

Providing for cost and for method of discharge; for the erection and equipment of buildings. Making biennial appropriation of \$60,000.

Chap. 44, Mar. 6, 1907.

1560. **Massachusetts:** Establishing the name of the "Wrentham State School" (school for feeble-minded).

[See chap. 508, Acts, 1906.]

Chap. 421, May 16, 1907.

1581. **North Dakota:** Amending secs. 1165, 1167, 1168, 1910, 1911, and 1912, Revised Codes, 1905, relative to institution for the feeble-minded.

Requiring semiannual payment of \$50 by persons legally responsible for persons admitted. County to pay in cases of indigence.

Chap. 237, Mar. 7, 1907.

1562. **Rhode Island:** Providing for the establishment, maintenance, management, and control of the Rhode Island School for the Feeble-Minded.

Placing said school under the control of the state board of education. Appropriating \$25,000 for site and building. Prescribing powers and duties of board and condition of admission or commitment.

Requiring the establishment of a school department for the instruction of persons within school age capable of being benefited and a custodial department for others.

Chap. 1470, Apr. 23, 1907.

## U. EDUCATION OF DEPENDENTS AND DELINQUENTS.

Properly speaking, the enactments of this group do not belong within a classification of strictly educational legislation. They are included here, however, as evidences of the widespread legislative endeavors to meet the social and educational needs of those classes of children who, under other circumstances, not only have the meagerest educational opportunity, but who are most likely to become, without control and education, members of a nonsocial class. Particular attention and emphasis should be placed upon the several enactments creating or modifying the juvenile court, which is generally recognized as having become a most valuable educational instrumentality.

## (a) General.

1563. **Alabama:** Delinquent children and juvenile court act.

Act No. 340, p. 442, Mar. 12, 1907.

1564. **Arizona:** Defining the powers of the several district courts with reference to the care, treatment, and control of dependent, neglected, incorrigible, and delinquent children under 16 years of age.

Defining "dependent," "neglected," "incorrigible," and "delinquent" children. Providing for separate sessions of district courts, for powers and procedure of court, for the appointment of probation officers, for conditions and methods of commitment.

Chap. 78, Mar. 21, 1907.

1565. **Arkansas:** Providing for the better maintenance and bringing up of children.

Authorizing county judges to take charge of certain neglected and delinquent children between 3 and 15 years of age.

Act No. 237, Apr. 30, 1907.

1566. **California:** Adding sec. 31 to chap. 222, Statutes, 1893, establishing a school for the discipline, education, employment, reformation, and protection of juvenile delinquents, to be known as the "Whittier State School."

Providing for the transfer thereto of certain boys under 18 years of age from the state prison.

Chap. 4, Feb. 7, 1907.

1567. **California:** Amending chap. 43, Statutes, 1903, as amended by sec. 16, chap. 610, Statutes, 1905, relative to the control, protection, and treatment of dependent and delinquent children.

Sundry minor amendments. Provisions concerning establishment, by municipalities or counties, of places for the detention of dependent and delinquent children. Providing also for payment of expenses of maintenance of such children.

Chap. 427, Mar. 21, 1907.

1568. **California:** Adding sec. 9 to chap. 19, Statutes, 1880, relative to the support of orphans, half orphans, and abandoned children.

Providing that the state series of school text-books shall be furnished to state institutions for the support of such children. Appropriating \$10,000 annually.

Chap. 472, Mar. 22, 1907.

1569. **Colorado:** Providing for the establishment of a juvenile court in each county and in each municipality known and designated as a city and county within the State in which there are 100,000 or more inhabitants.

Prescribing the jurisdiction, powers, rights, proceedings, and practice of such courts; defining the rights, powers, duties, and qualifications of the judges and other officers connected therewith; and providing for the maintenance thereof.

(Chap. 149, Apr. 3, 1907. (May 15, 1907.)

1570. **Colorado:** Concerning dependent and neglected children.

Defining terms "dependent child" and "neglected child." Providing for trial of cases concerning such children in the county and juvenile courts. Prescribing method of petition for trial, conduct of hearing, and regulations concerning commitment of child to state home or adoption by some family.

"SECTION 9. This act shall be liberally construed to the end that its purpose may be carried out, to wit: That proper guardianship may be provided for in order that the child may be educated and cared for, as far as practicable, in such manner as best subserves its moral and physical welfare, and as far as practicable in proper cases that the parent, parents, or guardian of such children may be compelled to perform their moral and legal duty in the interest of the child."

"SECTION 7. Any dependent child committed to the state home for dependent and neglected children shall as to its care and disposition by said home be subject to the provisions of the act approved April 10, 1895, or any amendment thereto, establishing said home for dependent and neglected children. This act shall also be subjected to the right of the state bureau of child and animal protection to be appointed guardian of any child neglected or cruelly treated as now or hereafter provided by the laws of this State."

Chap. 168, Apr. 2, 1907.

1571. **Colorado:** Amending secs. 9, 14, 17, and 35, chap. 15, Laws, 1897, establishing the State Industrial School for Girls.

Authorizing board of control, upon proper notice, to hold the regular monthly meeting in Denver. Requiring members to personally examine school at least once during any month the meeting is not held at the school.

Making minor changes in method of releasing a girl. Empowering board of control to refer to authorities from whom received any girl considered an improper subject for the school and providing other treatment for such girl.

Chap. 225, Apr. 8, 1907.

1572. **Delaware:** Amending chap. 42, Laws, 1904-5, authorizing the levy court of Newcastle County to pay for the maintenance of persons committed to the Delaware Industrial School for Girls.

Increasing amount paid for each person from 25 to 40 cents per day.

Chap. 136, Mar. 14, 1907.

1573. **Idaho:** Amending secs. 8 and 12, H. B. No. 114, Laws, 1905, relative to the care of delinquent children.

Reducing penalties for violation of act. Providing for the appointment of not more than two probation officers in counties having a school population of over 5,000; for one in others.

Boards of school trustees to report cases of truancy, delinquency, and incorrigibility to county superintendent, who shall report such cases to the judge of the probate court.

H. B. No. 9, p. 231, Mar. 12, 1907.

1574. **Indiana:** Concerning the names, management, and control of the state benevolent, reformatory, and penal institutions, defining the powers of the boards of trustees, prohibiting campaign assessments, and providing penalties.

## Names of institutions changed:

"SECTION 2. The name of the Indiana Industrial School for Girls is hereby changed to the Indiana Girls' School; the name of the Indiana Institution for the Education of the Deaf and Dumb is hereby changed to the Indiana State School for the Deaf; the name of the Indiana Institution for the Education of the Blind is hereby changed to the Indiana School for the Blind; and said schools for the deaf and for the blind shall not be regarded nor classed as benevolent or charitable institutions, but as educational institutions of the state conducted wholly as such."

Chap. 98, Mar. 2, 1907.

1575. **Kansas:** Amending and supplementing chap. 190, Laws, 1905, establishing a juvenile court and providing for dependent and neglected children.

Providing penalty for parents or other persons responsible for delinquency, dependency, or neglect. Provision for suspension of sentence and the recovery of forfeited bonds. Providing for the establishment of a detention home or a juvenile farm in counties having a population of more than 20,000. Providing for the conduct and support of such. Providing for reports of juvenile courts.

Chap. 177, Mar. 12, 1907.

1576. **Kentucky:** Amending secs. 1, 6, 8, 9, 10, 13, 14, and 29, chap. 18, Laws, 1906, creating and establishing a board of commissioners to be known as the "state board of control for charitable institutions," and prescribing its powers and duties.

Chap. 28, Mar. 21, 1908.

1577. **Kentucky:** Repealing chap. 54, Laws, 1906, providing for the punishment of persons responsible for or directly promoting or contributing to the conditions that render a child dependent, neglected, or delinquent; and enacting a substitute.

Chap. 60, Mar. 19, 1908.

1578. **Kentucky:** Repealing chap. 64, Laws, 1906, relative to the powers of the several county courts with reference to the care, treatment, and control of delinquent, neglected, and dependent children, and enacting a substitute.

Chap. 67, Mar. 19, 1908.

1579. **Louisiana:** See enactment No. 953.

1580. **Louisiana:** Regulating the care, treatment, and control of neglected and delinquent children, 17 years of age and under, and providing for the trial of adults charged with the violation of laws for the protection of the physical, moral, and mental well-being of children, or with desertion or failure to support wife or children; organizing the juvenile court in the parish of Orleans, providing a judge and officers therefor, and fixing their qualifications, mode of election and appointment, term of office, and compensation; providing for separate sessions, as juvenile courts, of the district courts outside of said parish; defining the jurisdiction of said courts and prescribing the procedure therein; providing said courts with probation officers of either sex, and fixing their mode of appointment, duties, and powers; providing for indeterminate sentences by said courts and for appeals therefrom; providing for the investigation of persons and institutions utilized by said courts, and for the compilation of statistics respecting their operations; and providing penalties for violations.

Act No. 83, June 30, 1908. (Jan. 1, 1909.)

1581. **Louisiana:** Proposing an amendment to the constitution ratifying and carrying into effect an act of the legislature regulating the care of neglected and delinquent children and for the trial of adults in certain cases, establishing a juvenile court in the parish of Orleans, and providing for separate sessions, as juvenile courts, of the district courts outside of said parish, and making other provisions cognate thereto.

Act No. 245, July 8, 1908.

1582. **Maine:** Amending sec. 31 and repealing sec. 32, chap. 143, Revised Statutes, 1903, relative to the Maine Industrial School for Girls.

Expenses of clothing and subsistence of girls to be paid by the State rather than city or town of residence.

Chap. 31, Mar. 6, 1907.

1583. **Maine:** Amending secs. 3 and 4, chap. 22, Acts, 1903 (secs. 3 and 4, chap. 143, Revised Statutes, 1903), and repealing sec. 5, chap. 143, Revised Statutes, 1903, relative to the State School for Boys. Repealing provision relative to notices of liability to cities and towns and to the recovery of expenses by the State.

Expenses of boys committed to State School for Boys to be paid by the State instead of the town of residence. Making annual appropriation of \$1,000 for two years to defray expenses.

Chap. 120, Public Laws, Mar. 26, 1907.

- 1583a. **Maryland:** Regulating the importation into the State of actual paupers, vagrant, criminal, incorrigible, insane, or helplessly crippled or diseased children.

Chap. 42, p. 92, Mar. 3, 1908.

1584. **Massachusetts:** Providing for an investigation and report by the state board of charity relative to the establishment of an industrial school for boys.

Appropriating \$500. Board to report not later than Jan. 1, 1908.

Resolves, chap. 121, June 21, 1907.

- 1584a. **Massachusetts:** Providing for the establishment of the industrial school for boys.

Chap. 639, June 13, 1908.

1585. **Michigan:** Amending secs. 5 and 7, act No. 113, Acts, 1903, providing for the government, management, and control of the state public school at Coldwater.

Bringing dependent children between 12 and 14 within provisions of act.

Act No. 301, June 27, 1907.

1586. **Michigan:** Providing for the punishment of persons responsible for or contributing to the delinquency of children.

Authorizing fine not to exceed \$100, imprisonment in county jail for not more than ninety days, or both.

Act No. 314, June 28, 1907.

1587. **Minnesota:** Amending chap. 285, Laws, 1905, regulating the treatment and control of dependent, neglected, and delinquent children.

Providing for the establishment of detention homes and for their control. Defining authority of juvenile courts to place children in such homes.

Chap. 172, Apr. 12, 1907.

1588. **Minnesota:** Amending secs. 5496, 5497, 5500, and 5501, Revised Laws, 1905, relative to juvenile offenders.

Providing in counties having more than 50,000 inhabitants that a probation officer shall be appointed by district judges (formerly, state board of control). Sundry other amendments concerning powers, duties, reports, and compensation of probation officers.

Chap. 342, Apr. 23, 1907.

1589. **Missouri:** Regulating the treatment and control of neglected and delinquent children, and providing necessary places of detention for such, in counties having a population of 100,000 and less than 150,000 inhabitants.

Defining "neglected" and "delinquent" child. Designating a juvenile court, prescribing procedure and authority. Authorizing probation officers, etc.

S. B. No. 463, p. 217, Mar. 19, 1907.

1590. **Montana:** Concerning dependent and neglected children, and concerning the parents, guardians, and other persons responsible for the custody, care, and maintenance and support of such children, and providing penalties.

Defining "delinquent or neglected child." Granting jurisdiction to district courts. Prescribing mode of complaint and procedure. Providing penalties for violations.

Chap. 92, Mar. 5, 1907.

1591. **Montana:** Concerning delinquent children or delinquent juvenile persons; providing for their apprehension, custody, and disposition; the jurisdiction of courts and proceedings therein; and concerning the parents, guardians, and other persons responsible for the custody, care, education, maintenance, and control of such children; providing for punishments and penalties.

Chap. 126, Mar. 6, 1907.

1592. **Nebraska:** Repealing, and reenacting with amendments, secs. 1, 6, 7, 9, and 11, ch. 59, Laws, 1905, regulating the treatment and control of dependent, neglected, and delinquent children.

Raising age limits of such children and making sundry minor amendments relative to probation officers and commitments.

Chap. 45, Apr. 9, 1907.

1593. **New Hampshire:** Repealing secs. 24 and 25, chap. 284, Public Statutes, 1904, and enacting new sec. 24, relative to industrial schools.

Making the State instead of the town or county liable for board and instruction of person committed.

Chap. 133, Apr. 5, 1907. (Apr. 15, 1907.)

1594. **New Jersey:** Providing for the establishment of a school and school facilities and accommodations in the state prison.

Requiring board of inspectors of the state prison to establish said school; creating a state prison school board and placing school under its supervision and control. Prescribing powers and duties. All teachers but head teacher may be inmates.

Chap. 65, Apr. 15, 1907.

1595. **New York:** Establishing a state probation commission and defining its powers and duties.

Commissioner of education an ex-officio member of such commission.

Chap. 430, June 6, 1907.

1596. **North Carolina:** Establishing a reformatory or manual training school for the detention and reformation of the criminal youth of the State.

Chap. 500, Mar. 2, 1907.



1587. **Ohio:** *See enactment No. 962.*

1588. **Ohio:** Repealing, and reenacting with amendments, sundry laws regulating the treatment and control of dependent, neglected, and delinquent children.

S. B., 413, p. 192, Apr. 24, 1908.

1599. **Oklahoma.** Authorizing and establishing state orphan homes for destitute or dependent white and colored children, naming same, and providing for a superintendent and board of four directors for each.

Chap. 70, H. B. 671, p. 629, May 18, 1908.

1600. **Oregon.** Repealing chap. 80, Laws, 1905, and enacting a substitute defining and regulating the treatment and control of dependent, neglected, and delinquent children.

Providing for the disposition, care, education, protection, support, maintenance, and punishment of such children; for their guardianship and adoption; prescribing the powers and duties of courts with reference thereto. Establishing and providing for the maintenance of juvenile courts; prescribing their jurisdiction and powers, and the procedure therein. Providing for the appointment and compensation of probation officers, and prescribing their duties and powers. Providing for the supervision and control of all corporations, institutions, societies, and associations receiving children under the act.

Chap. 34, Feb. 25, 1907.

1601. **South Dakota:** *See enactment No. 1073.*

1602. **South Dakota.** Changing the name of the South Dakota Reform School. Name changed to "South Dakota Training School."

Chap. 222, Mar. 7, 1907.

1603. **Tennessee:** Amending sec. 12, chap. 516, Laws, 1905, relative to delinquent children (juvenile court law).

Applying law to counties of 100,000 inhabitants (formerly 70,000) and over by the Federal census of 1900 or any future census.

Chap. 110, Mar. 18, 1907.

1604. **Utah:** Repealing sec. 4, chap. 124, Laws, 1903, relative to dependent and neglected children, and chap. 117, Laws, 1905, relative to juvenile courts, and reenacting substitute measures.

Providing for juvenile courts, the title, term of office, and compensation of the judge thereof, for a juvenile court commission and specifying its duties, for clerks of said court; defining the jurisdiction of juvenile courts, and providing for the jurisdiction of district courts in certain cases; defining and specifying the practice and procedure of juvenile courts; providing for appeals to the supreme court; providing for a reporter for the juvenile court; defining the duties of county attorney; providing for probation officers and their duties and compensation; making disposition of fines in said courts, regulating the time and place of holding court and service of process.

Chap. 130, Mar. 25, 1907.

1605. **Vermont:** Instructing joint standing committee on industrial school at Vergennes to visit that institution and inquire into its reformatory methods, sanitary conditions, practical workings, and the repairs needed.

Jt. Res. No. 513, Nov. 19, 1906.

1606. **Washington:** Amending sec. 1, Laws, 1890, providing for the establishment and location of a state reform school (p. 271).

Changing name from "State Reform School" to "State Training School."

Chap. 90, Mar. 9, 1907.

1607. **Wisconsin:** Amending sec. 573f, Statutes, 1898, relative to the commitment of neglected children to the state public school.

Chap. 82, May 4, 1907.

1608. **Wisconsin:** Amending sec. 4906, Statutes, 1898, providing for the commitment of children to the industrial schools.

Female as well as male children convicted of a criminal offense may be sent to an industrial school. Maximum age limit for so sending fixed at 18 years.

Vagrant or incorrigible boys between ages of 8 and 16 years (formerly 10 and 18) to be sent to Wisconsin Industrial School for Boys.

Chap. 630, July 13, 1907.

1609. **Wyoming:** Providing for the care and training of delinquent children.

Authorizing court in certain instances to commit children to care of certain institutions and societies.

Chap. 60, Feb. 16, 1907.

#### (b) Truant and Detention Schools.

1610. **Colorado:** Providing for a detention house in each county, and in each municipality known and designated as a city and county, within the State, in which there are 100,000 or more inhabitants, and providing for the maintenance thereof.

Detention house to be erected and maintained by the county commissioners and conducted in connection with the juvenile court; superintendent to be appointed by the judge of juvenile court, and to direct the conduct or discipline and education or care of children placed therein.

School board, upon request of judge of court, to furnish teachers, books, or appliances for the proper education of children detained and to pay the expense thereof.

Chap. 170, Apr. 2, 1907.

1611. **Iowa:** Amending and adding to chap. 11, Laws, 1904, enlarging the powers of the district court, and regulating the treatment and control of dependent, neglected, and delinquent children.

Providing for the establishment, in counties having a population of more than 50,000, of a detention home. Providing compensation for and empowering probation officers for such counties. Authorizing tax levy of 1 mill.

Chap. 7, Mar. 27, 1907.

- 1611a. **Maryland:** Repealing, and reenacting with amendments, sec. 156, art. 77, Public General Laws, 1904, relative to parental schools in the city of Baltimore and Allegany County.

Chap. 241, p. 229, May 31, 1908.

1612. **Massachusetts:** Changing the name of certain truant schools.

Such schools to be called "training schools."

Chap. 103, Feb. 24, 1908.

1613. **Minnesota:** See enactment No. 1587.

1614. **Nebraska:** Authorizing county boards to make appropriations for the establishment and maintenance of detention homes in connection with juvenile courts.

Chap. 46, Mar. 18, 1907.

1615. **New Jersey:** Amending secs. 1, 3, and 5, chap. 37, Laws, 1906, establishing schools of detention.

Striking out clause authorizing such establishment only in counties of 150,000 population. Constituting such detention school a special school district. Entitling it to receive apportionment of state school funds, and providing for a board of directors. Extending scope of educational activities so as to include industrial training, training for citizenship, etc. Providing for selection and organization of teaching force. Permitting counties under certain conditions to contract with private institutions for the care of such dependent and delinquent children, such private schools not to be regarded as parts of the state school system.

Chap. 307, Apr. 16, 1908.

1616. **Utah:** Providing detention homes for the care and custody of dependent or delinquent children 16 years of age or under, and for the care, education, conduct, and maintenance thereof.

Applying to counties containing cities of the first or second class.

Chap. 144, Mar. 25, 1907.

1617. **Wisconsin:** Amending chap. 447, Laws, 1903, authorizing the establishment of truant ungraded day schools and parental boarding schools and commitments to such schools in cities of the first class.

Allowing city to establish such a school within or without (formerly within) the city limits, or to contract with city having such school. Raising age limit of children in school at 18 (formerly 16) years. Board of education to appoint officers, teachers, and agents. Providing for regular oversight of children on parole by parole agents or teachers. Making nature of child's home a consideration for parole.

Chap. 186, June 6, 1907.

## RECENT DECISIONS OF FEDERAL AND STATE SUPREME COURTS UPON TOPICS OF CURRENT INTEREST IN PUBLIC EDUCATION.<sup>a</sup>

### EXPLANATORY STATEMENT.

The following decisions of the highest courts of the States concerned, including one of the Supreme Court of the United States, have been selected for presentation here primarily by reason of their evident far-reaching influence upon the schools of the States in which the decisions have been rendered, in addition to the fact that they deal with topics possessing more than ordinary interest to those engaged in the work of public education. No effort has been made to discuss either the educational or the judicial implications of the decisions. The first would necessitate a fairly accurate knowledge of the local educational circumstances involved, while to attempt the second would not only carry the discussion beyond the present purpose, but would perhaps evidence presumption on the part of a layman. It has been deemed sufficient to present the facts and opinion rendered, either in full or by digest, in each case.

### JURISDICTION OF STATE DEPARTMENTS OF EDUCATION.

#### I. New York.

[People ex rel. Walrath v. O'Brien (Supreme Court, New York, appellate division, March, 1906), 97 N. Y. Sup., 1115.]

COCHRANE, J.—The purpose of this proceeding is to review the action of the respondents composing the board of education of the city of Troy in removing the relator from his position as principal of the high school in said city, which position he held from about March 1, 1897, until the time of his removal by the respondents as aforesaid, which occurred in December, 1907.

By chapter 580 of the laws of 1902, which applies only to some of the cities of the second class, including the city of Troy, it is provided among other things that "all principals shall hold their positions during good behavior and shall be removable only for cause, after a hearing, by the affirmative votes of at least a majority of the board" of education.

<sup>a</sup> For digests of and citations to other decisions relating to public education, see Index, under "Decisions."

The petition of the relator herein shows that charges were preferred against him to the board of education; that a hearing on such charges was accorded to him by said board; and that after such hearing he was removed as aforesaid. Such hearing constituted a trial, and the action of the board in removing the relator from his position was a decision that such charges were properly made and that they constituted just cause for his removal. The relator, feeling himself aggrieved by such decision, seeks by this proceeding to have it reviewed by the court.

Title 14 of the consolidated school law (chapter 553 of the laws of 1894) provides that "any person conceiving himself aggrieved in consequence of any official act or decision concerning any other matter under this act or any other act pertaining to common schools may appeal to the superintendent of public instruction, who is hereby authorized and required to examine and decide the same; and his decision shall be final and conclusive and not subject to question or review in any place or court whatever." By the same title the superintendent of public instruction is given power in reference to such appeals to make all orders which may in his judgment be proper or necessary to give effect to his decisions. Chapter 40 of the laws of 1904 abolishes the office of superintendent of public instruction, but provides that the powers and duties of his office shall be exercised and performed by the commissioner of education therein provided for, so that appeals may now be taken to the commissioner of education in the same cases where before the enactment of the last-mentioned statute such appeals might have been taken to the superintendent of public instruction.

The relator herein concedes that the public schools of Troy, including the Troy High School, are common schools and that chapter 500 of the laws of 1902, above referred to, relating to cities of the second class, including the city of Troy, is an act pertaining to common schools.

It thus appears that the relator, if aggrieved, may have complete and ample redress by an appeal to the commissioner of education, and as no statute to which we are referred authorizes a writ of certiorari in a case like this, section 2122 of the Code of Civil Procedure applies, which, so far as pertinent to this case, is as follows: "Except as otherwise expressly prescribed by a statute, a writ of certiorari can not be issued . . . where the determination can be adequately reviewed by an appeal to a court or to some other body or officer."

The determination of the board of education which the relator complains of can be adequately reviewed by the state commissioner of education, and hence the relator is not at liberty to avail himself of a writ of certiorari, and the order quashing such writ, which had previously been allowed, was properly granted.

The order must be affirmed, with \$10 costs and disbursements.

**NOTE.**—The following decision of the commissioner of education of New York (April 9, 1906) in the foregoing case is also presented in order to display the complete circumstances relating to the above case:

[New York State Education Department. In the matter of the appeal of Martin H. Walrath v. The Board of Education of the City of Troy.]

**BY THE COMMISSIONER.**—This is an appeal from the action of the board of education of the city of Troy in removing appellant from the position of principal of the high school. The action of the board was based upon charges made by the superintendent of schools. The charges were served upon the appellant November 23, 1905, when he was notified that his trial would be held before the board November 27, 1905. At that time the investigation proceeded; the corporation counsel attended and prosecuted the charges and the appellant was attended by counsel; adjournments were had from day to day and the testimony was taken at much length. On December 4, 1905, the board voted that the appellant had been found guilty, without specifying the particular offenses of which he was found guilty, and that he should be dismissed from his position forthwith.

Section 245 of the charter of cities of the second class, of which Troy is one, provides, among other things, as follows: "All principals shall hold their positions during good behavior and shall be removable only for cause, after a hearing, by the affirmative votes of at least a majority of the board."

The appellant is a graduate of Syracuse University in the class of 1889, and had been principal of the Troy High School since March 1, 1897.

The charges were made by Mr. Edwin S. Harris, the superintendent of the Troy schools since September, 1904. They were made at the instance of the board, although the proceedings clearly show that the superintendent himself was an active agent in preparing and proving them. They were drawn by the corporation counsel upon information supplied by the superintendent, and they were signed and verified by the superintendent. They alleged incompetency; neglect of duty; disobedience of the rules, requirements, and directions of the board of education and of the superintendent of schools; maladministration and misconduct in office; conduct unbecoming a teacher and principal of a high school; and asserted that the things complained of were done of omitted intentionally, willfully, and maliciously.

The specifications set forth twelve instances of alleged misdeeds or failure to perform the duties of appellant's position. Stripped of legal verbiage, these were as follows:

1. Failure to assign a teacher to the head of the modern-language department after she had been appointed thereto by the board.
2. Refusal for some days to assign another teacher to work in mathematics after her appointment thereto by the board.
3. Criticism of the board for the foregoing appointments.
4. Hindering the employees of the department of public works from making certain changes at the high school, directed by the board of education.
5. Failure to report a list of the students of the high school and the number of school credits granted to each, as well as the number claimed by each, notwithstanding the directions of the board.
- 6, 7, 8. Failure to maintain discipline of pupils on several named occasions and to report thereupon, although directed to do so.
9. Failure to keep accurate records of work and credits of students.
10. Untrue and inaccurate reports of work and credits of students.
11. Failure to make true and accurate reports of the attendance of nonresident students.
12. Unjust, improper, and malicious criticism of the board and the superintendent.

The answer of the appellant denied, severally and specifically, the charges of the superintendent, adding what the principal claimed were explanations of certain facts brought out by the allegations made against him.

At the hearing before the board the main witnesses were the superintendent and the principal. Of the 429 pages of the record, their testimony fills 200 pages. The proof of the charges rests almost exclusively upon the testimony of Mr. Harris, the superintendent. But one other witness was called to sustain the allegations, and he upon but one unimportant matter. The contentions of the principal are corroborated here and there by the testimony of several teachers in the high school and by others.

The commissioner of education has read, and heard able counsel upon, and reflected upon this testimony. Though probably not bound to be limited by the record, he has been. There has been no desire to take over the functions of the board of education or to substitute the discretion of the commissioner for that of the board. If the weight of evidence seemed nearly balanced, and the judges appeared free from bias, and the judgment inflicted a penalty fairly adjusted to a real offense reasonably established, the commissioner would sustain the board, even though it might seem to him that they had fallen into some incidental errors and his conclusions upon the facts were not fully in accord with theirs. But he can come to no other conclusion than that the board was of one mind in prejudging the case and intent upon coming to but one end; was biased against the appellant; magnified the small incidents of administration beyond reason; denied him the fair opportunities of defense; inflicted a penalty wholly out of proportion to any apparent delinquency, and so violated the law which they were bound to regard.

No immoral act is charged against the appellant; no hasty or uncontrollable temper is intimated; nothing to show that he brought dishonor upon his position is established; no doubt about his scholarship is brought forward. It nowhere appears that he did not enjoy the common respect of the community, of associate teachers, and of his pupils. He certainly carried himself with much steadiness under trying circumstances. The most that is alleged and attempted to be proved is that he failed to do something that he should have done, or talked too freely; and, under the light of all that was brought out before the board, even so much fades pretty nearly to the vanishing point.



The superintendent had a professional as well as a legal and moral obligation to the principal, and whatever difficulties there were should have been settled between the superintendent and principal, and would have been if the members of the board and the superintendent had been moved by nothing but the good of the schools and regard for a teacher in a responsible place. Indeed, the proceedings unmistakably declare the fact that the difficulties which have set the schools and the people of a city in most regrettable turmoil have arisen out of the solicitude of this principal for the character and the quality of the faculty over which he was to preside and out of the integrity that could not always bend to even official authority which had some other aims than the exclusive good of the schools.

The teachers who were appointed to the high school faculty without conference with the principal were assigned to work by him with little delay and no more than was inevitably incident to his surprise and to their lack of adaptation to new and responsible duties. The criticisms against the members of the board sound very differently when repeated by one side from what they do when explained by the other, and, in any event, were not to the public and not beyond what any public officer must expect, without exercising his official power to turn people out of permanent positions. The allegation about interfering with changes in the building grew out of an insignificant and passing episode. Those concerning reports upon the standings of pupils and the number of failures are clearly the result of measuring things by different standards and of differing estimates of personal and official prerogatives. That in relation to the discipline of pupils is not serious in school administration, and is no graver than may be frequently made against principals who have live boys to manage. The one about not reporting nonresident pupils, which looks bad upon its face, because it would seem to indicate that the principal permitted the city to be defrauded, is shown to refer to a student whose father was a resident and a taxpayer at the time referred to, and who was therefore in the school of right. No wrongful intent or malicious purpose appears anywhere.

But this is not all: The trial was not judicially fair. If any inquiry is unfair it is one in which the tribunal pretends to be governed by legal rules and yet has no real knowledge of them, and so exercises the power to use them, either willfully or ignorantly, in favor of one side and against the other. It can not be expected that a board of education will be familiar with the legal rules governing the taking of evidence, but it is not too much to insist that a board of education shall either show such disposition, even anxiety, to protect the rights of the accused as will lead it to receive and exclude the testimony offered by both sides according to true rules of evidence, or else make no such pretense and get at the facts through whatever both sides can offer. There need be no hesitation in saying that the record plainly discloses that testimony material to the accused was excluded repeatedly when it tended to show that members had prejudged the case or when it would weigh against the preconceived plans of the board. An able young lawyer, favorable to the attitude of the superintendent and the board, was allowed to determine what evidence should be taken, and to badger the principal to counsel's content, while another was kept from analyzing the contents of the superintendent's mind beyond what seemed to the board to be safely consistent with its point of view. It is not said, as the superintendent and board allege of the principal, that the board was intentionally, willfully, and maliciously wrong about this. It was wrong, but it may have become infatuated with theories which impelled its course, and it may have been under political pressure which really forced it to think that the exigencies of the situation demanded it. The matter is given place here for the enlightenment and guidance of other boards in similar or analogous situations, and in eager anticipation of the time when partizanship shall not dare to obtrude upon the management of the schools.

It must be understood that a teacher is entitled to a fair chance for his life, and that a teacher's place is not to be the football of politics, or partizanship in other form. If a teacher to whom the law gives a permanent tenure through good behavior, and declares that he can only be removed for cause, is to be removed, the cause must be a reasonable one and the proceedings leading up to the determination must be so conducted as to establish the cause and yet protect the teacher's rights.

The commissioner of education takes no flabby or indifferent view of the need of organization, of respect for official directions, of obedience to constituted authority. But the organization must rest upon sound fundamental principles,

the directions must square with reason and right, and the authority must be exclusively actuated by the high aims of the educational system and be safely within the law which regulates the schools. When it is so, authority is entitled to honor for any aggressiveness it may show; and when it is not, he who resists it is also entitled to honor.

It is hard for anyone to lose employment. It is still harder for one to lose employment as a teacher at a time of the year which practically makes reemployment impossible for nine or ten months. It comes pretty close to annihilation when a teacher is peremptorily dismissed in the presence of all the people of a considerable city, and with the full knowledge of all teachers in the State and country, from so conspicuous a position as the principalship of the Troy High School, when it is proclaimed that it is done for incompetence, neglect of duty, intentional maladministration, willful misconduct in office, malicious conduct unbecoming a teacher, and all the other things that come to the mind of a keen young corporation counsel assigned the duty of drawing charges and making a case.

The teacher in this case was in a conspicuous and responsible position. He was bound to endeavor to work quietly and harmoniously with all others who had the good of the schools in view, and particularly with those in official authority over him. He was bound to be patient, to carry himself with steadiness and dignity, and even to suffer much in the interest of the common good. But he was a man of character and education. He had had considerable experience in the place he held. He was not an old man, incapable of further progress and yet better accomplishments. The school over which he presided was upon his heart. He was entitled to be treated like a man, to be regarded for the public service he had rendered. He was not a mere hired man; he was entitled to be conferred with about the interests of his school. When the board was honest and sane and deliberate he was bound to act upon their conclusions without cavil, or vacate his place for one who could. If he could not do that, then he was incompetent for such a trust, and if under such circumstances he would not vacate his place, then the board could remove him at a time and in a way which would inflict no more upon him than the circumstances made reasonable and the needs of the school made imperative. An offense against good judgment or disagreements with the board which need not force an open rupture if managed by men of sense, which might be sufficient to warrant a request for his resignation or even a removal from position in the vacation time, might come short of supporting such decisive action at a time when the schools were open and the situation called for toleration and no unnecessary commotion. When the board became possessed of a purpose to oust him in the middle of the school year without substantial cause, he was not bound to acquiesce; the law is against that and it protected him. It was precisely for this purpose that the provisions concerning the tenure of teachers in the uniform charter of cities of the second class was inserted.

The appeal is sustained, and the action of the respondent removing the appellant from the principalship of the Troy High School is declared to be of no effect.

It is ordered that the board of education of the city of Troy forthwith recognize said Martin H. Walrath as principal of the Troy High School, charged with all the responsibilities and authority, and entitled to all of the prerogatives and emoluments of said position the same as he would have been if the action of said board of education taken December 4, 1905, removing him from said position had not been taken.

This decision must be filed with the clerk of the board of education of the city of Troy, and notice thereof be by him given to the appellant and respondent, with opportunity to examine the same.

April 9, 1906.

## II. New York.

[Harris v. Draper (Supreme Court, New York, special term, Rensselaer County, February, 1908), 109 N. Y. Sup., 983.]

Application of Edwin S. Harris for a writ of prohibition against Andrew S. Draper, as commissioner of education of the State of New York, and Elias P. Mann, individually and as mayor of the city of Troy, to restrain a further prosecution and hearing of an appeal taken by the respondent Mann from a

decision of the board of education of the city of Troy dismissing charges preferred against relator as superintendent of schools of such city. Writ dismissed.

**Draper, J.** An alternative writ of prohibition has heretofore been granted in this matter restraining the defendant, Andrew S. Draper, as commissioner of education of the State of New York, from hearing a certain appeal taken by Elias P. Mann, individually and as mayor of the city of Troy, from a decision of the board of education of the city of Troy on charges preferred against Edwin S. Harris, the relator, superintendent of schools of said city of Troy, by said Mann, the defendant, which charges were dismissed by the said board of education after a trial thereof. An appeal was taken by said Elias P. Mann from the decision of said board of education to the defendant, Andrew S. Draper, commissioner of education. The question was argued before said commissioner as to whether he had jurisdiction to hear said appeal, and as a result of said argument the said Draper decided that he had jurisdiction to hear and determine the appeal from the decision of said board of education and to review its decision. An application is now made to make this alternative writ of prohibition absolute on the ground that the commissioner of education has no jurisdiction to hear this appeal. Elias P. Mann, individually and as mayor, makes a return objecting to the legal sufficiency of the papers upon which the writ of prohibition herein was granted, and alleging that the said Draper has jurisdiction of the appeal referred to in the petition herein.

Practically all the questions submitted here were decided in *People of the State of New York ex rel. Martin H. Walrath, appellant, v. Frank E. O'Brien and Others, Acting as Commissioners of Education of and for the City of Troy*, respondents (112 App. Div., 97, 97 N. Y. Supp., 1115), except in that case the relator therein conceded (1) that the public schools of Troy were common schools, and (2) that chapter 560, page 1341, of the Laws of 1902, including the city of Troy, is an act pertaining to common schools, which matters are not conceded here by this relator, but are denied. We shall address ourselves then to those two questions.

We find by chapter 66 of the Laws of 1805 an act passed to raise a fund for the encouragement of common schools. Chapter 32 of the Laws of 1807 is an act further to increase the common school fund. In chapter 246 of the Laws of 1811, entitled "An act for the payment of certain officers of government and for other purposes," we find section 54 to be as follows:

"It shall and may be lawful for the person administering the government to appoint five commissioners to report, at the next meeting of the legislature, a system for the organization and establishment of common schools, and the distribution of the interest of the school fund among the common schools in this state."

In the following year (June 19, 1812) chapter 242 of the laws of that year, "An act for the establishment of common schools," was passed, which provided for an officer within this State, to be known as the "superintendent of common schools," and in which act provision was made for the distribution of the school fund to be later acquired. By chapter 192, page 229, of the Laws of 1814, "An act for the better establishment of common schools," which repealed the prior act of 1812, a more elaborate scheme was provided for the establishment of common schools in this State, and provision was made for the general apportionment of moneys for the said common schools. Somewhat similar provision for the organization and support of the common schools has continued under statutory authority ever since, and there has been an officer designated as the "superintendent of public instruction," until the act (chap. 40, p. 94, of the Laws of 1904) was passed which repealed the last act on that subject as to the title of the office, and designated an officer with substantially the same and additional duties as the "commissioner of education," which position is now held by the defendant Draper.

Chapter 131, page 129, of the Laws of 1816 is entitled "An act to incorporate the city of Troy." Commencing with the preamble of section 40 of that act, and including sections 40 to 47, inclusive, provision is made for school and educational matters in said city. Section 42 thereof provides that the school trustees, whose election is provided for in that statute, shall be required to perform the duties of inspectors and trustees under the "act for the better establishment of common schools," subject to such regulations as the common council of said city shall make. Section 43 provided that the moneys which shall arise from the distribution of the school fund shall be appropriated to the support of the city's schools by the commissioners of schools. By chapter 198, page 299,

of the Laws of 1849, the legislature amended the charter of the city of Troy and provided for the establishment of free schools in said city. Section 3 thereof provided, among other things, that the said city in its corporate capacity should be able to hold and dispose of any real or personal estate transferred to it by bequest or devise for the use of the common schools of the said city. Section 8 provided that the common council of the said city might make appointment of commissioners of the common schools. Section 9 provided how any commissioner of common schools might be removed, and section 10 provided that the commissioners of common schools in said city shall constitute a board, to be styled the "board of education of the city of Troy." By subdivision 1 of section 14 it was provided that said board shall have power, and it shall be their duty to establish and organize in the several wards of said city such and so many schools (including the common schools now existing therein) as they shall deem requisite and expedient; and by subdivision 9, "to have in all respects the superintendence, supervision, and management of the common schools" in said city; and by section 22, all moneys received by said city for or on account of the common schools should be deposited with the chamberlain of the said city to the credit of the board of education, to be used by said board of education in accordance with the provisions of that act. By chapter 186, page 359, of the Laws of 1851 (section 6), provision was made for election of further commissioners of common schools in said city of Troy. By chapter 129, page 284, of the Laws of 1872, which was an act to amend the charter of the city of Troy, it was provided, among other things, that the officers of said city should consist of two commissioners of common schools for each ward, and various other officers therein named. Chapter 80, page 120, of the Laws of 1892, was "An act to organize a board of school commissioners in and for the city of Troy and to provide for the government and support of the public schools of said city." It provided for a board of seven school commissioners, to be appointed by the mayor of said city, to take the place of the existing board of school commissioners. Said board was given authority to appoint a superintendent of schools for the city of Troy, and was given the control and management of the several public schools of the city of Troy, and shall possess and exercise all the powers now possessed by the present board of school commissioners in said city, except as in said act provided. Section 11, subdivision 1, provided that said board shall have power, and it shall be their duty, to establish and organize such and so many schools, including the common schools now existing therein, as they shall deem requisite or expedient, and to alter and discontinue the same, by section 7 thereof to pay the wages of school teachers out of moneys appropriated and provided by law for the support of schools in said city as far as the same shall be sufficient, and by section 12 to make and transmit to the state superintendent of public instruction a report in writing annually.

Article 9, section 1, of the constitution of the State of New York, adopted in 1894, provides as follows:

"Common Schools—Section 1. The legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this State may be educated."

Chapter 182, page 371, of the Laws of 1898, was "An act for the government of cities of the second class," commonly known as the "white charter." Troy is a city of the second class. Section 240 of that act, and subsequent sections, were amended by chapter 560, page 1341, of the Laws of 1902, which is entitled "An act to amend chapter 182 of the Laws of 1898 relative to the department of public instruction in cities of the second class." Section 240 thereof provides for a board of education, composed of three members, to be called "commissioners of education," which is the board of education now had in the city of Troy, and provides said board shall be the head of the department of public instruction in said cities. Section 242 thereof is as follows:

"The board has all the powers and is charged with all the duties of commissioners of common schools, and of trustees of the several school districts in this State, under the general statutes relating to common schools, so far as such powers and duties can be made applicable to the schools herein provided for, and are not inconsistent with the provisions of this act."

Section 243, which is the section under which relator, Harris, holds his office, is as follows:

"The superintendent of schools shall hold office during the pleasure of the board. Any person may prefer charges of incompetency, maladministration, or



misconduct against the superintendent, and thereupon the board shall proceed to hear the charges, and in case the same shall be sustained by the affirmative vote of a majority thereof the superintendent shall be dismissed from his office."

I think, from this brief examination of the legislation relating to the schools of this State and the city of Troy, it must be fairly apparent that the schools of said city are common schools, part of the common school system of this State. It must also follow, from an examination of said legislation, that chapter 560, page 1341, of the Laws of 1902, is an act pertaining to common schools. The title indicates it, and all the sections refer to matters pertaining to the common schools of the cities of the second class in this State. This supplies what was not determined by the appellate division in *People ex rel. Walrath v. O'Brien*, heretofore referred to. It seems to me clear that the legislature intended the jurisdiction of the commissioner of education to apply to the common schools of the cities of the second class, including Troy. Hence the appeal herein is governed by subdivision 7, section 1, title 14, chapter 556, page 1181, of the Laws of 1894, as amended by chapter 40, page 94, of the Laws of 1904, which confers upon the commissioner of education the powers and duties of superintendent of public instruction heretofore exercised by the said superintendent, including the power to determine appeals of this kind.

The point is made by the relator that the defendant, Mann, is not a person aggrieved within the statute. The statute is:

"Any person conceiving himself aggrieved in consequence of any decision made . . . may appeal."

The commissioner being given jurisdiction of the subject-matter of the appeal, the burden is on the defendant, Mann, to show before the commissioner that he is aggrieved by the decision of the board of education.

The same reasoning applies to the further point made, that under a strict reading of the statute applied to the circumstances of this case the commissioner of education might attempt to decide this appeal without notifying the relator, Harris, that it was pending. It will be time enough to provide for a contingency of that kind if it should ever arise.

It follows, therefore, that the writ of prohibition herein should be dismissed; and an order may be entered vacating or quashing it.

### STATUS OF EVENING HIGH SCHOOLS.

#### III. California.

[Board of Education of the City and County of San Francisco v. Hyatt (Supreme Court of California, December 6, 1907), 93 P. 117.]

In bank. Application by the board of education of the city and county of San Francisco for a writ of mandamus against Edward Hyatt, as superintendent of public instruction. Petition dismissed.

*Sloss, J.* Upon an application to this court by the board of education of the city and county of San Francisco for a writ of mandate to compel the state superintendent of public instruction to include the Humboldt evening high school in said city and county among the schools participating in the apportionment of the state high school fund, an alternative writ issued. The respondent appeared, and, after filing a demurrer and an answer, entered into a stipulation with the petitioner, agreeing upon the essential facts. By section 1 of the act entitled "An act creating a fund for the benefit and support of high schools and providing for its distribution," etc., approved March 6, 1905 (Stat. 1905, p. 58, chap. 65), provision is made for the annual levy of a tax for the support of regularly established high schools of the State. The money so collected is to be turned into a "state high-school fund," created by the act and is appropriated for the use and support of regularly established state high schools. Sections 3, 4. Section 5 of the act directs the superintendent of public instruction to apportion the fund to high schools of the State upon this basis: One-third of the annual amount equally among the county, district, city, union, or joint union high schools of the State, irrespective of the number of pupils enrolled

or in average daily attendance therein, and the remaining two-thirds pro rata according to the average daily attendance for the last preceding school year, "provided that such high schools have been organized under the law of the State, or have been recognized as existing under the high-school laws of the State and have maintained the grade of instruction required by law for the high schools; and provided that no school shall be eligible to a share in said state high-school fund that has not during the last preceding school year employed at least two regularly certificated high-school teachers for a period of not less than one hundred and eighty days with not less than twenty pupils in average daily attendance for such length of time . . . ; and provided that before receiving state aid, each school shall furnish satisfactory evidence to the superintendent of public instruction of the possession of a reasonably good equipment of building, laboratory, and library and of having maintained, the preceding school year, proper high-school instruction for a term of at least one hundred and eighty days . . . . It appears from the stipulation above referred to that the Humboldt evening high school was established and organized by the board of education of the city and county of San Francisco in October, 1897, at a time when said city and county was governed by the provisions of the consolidation act and the amendments thereto. In the establishment and organization of said school no election, as provided by sections 1670 and 1671 of the Political Code, was held. The sessions of said school are held in the evening only, and continue during two hours of each of five evenings per week.

The respondent contends, in the first place, that under the constitution of this State no high school holding evening sessions only can be established. This contention is based upon section 6 of article 9 of the constitution, providing that "the public-school system shall include primary and grammar schools, and such high schools, evening schools, normal schools, and technical schools as may be established by the legislature, or by municipal or district authority." The argument is that the constitution, by enumerating the various classes of schools and making evening schools a distinct class in this enumeration, distinguished such evening schools from all other classes enumerated, and that an evening school could not therefore at the same time be a high school, since high schools form a class separately provided for in the section. But this argument proves too much. It would lead equally well to the conclusion that an evening school could not be either a primary, a grammar, a normal, or a technical school, a conclusion which seems on its face to be untenable. We are satisfied that the framers of the constitution, in including in this section the words "evening schools," intended to obviate any doubt that might exist as to the power to provide for schools which should hold their sessions in the evening, and that it was not intended thereby to make a separate class of such schools in the sense that evening schools could not, as to the nature of the course of study pursued, possess the character of primary, grammar, high, normal, or technical schools.

Further, it is objected that the Humboldt evening high school was not organized pursuant to an election held under the provisions of section 1670 of the Political Code. By section 5 of the act of March 6, 1905, the benefits of the "state high-school fund" are limited to high schools that "have been organized under the laws of the State, or have been recognized as existing under the high-school law of the State." By this provision the act furnishes its own definition of the phrase "regularly established high schools of the State," used in the earlier sections, and impresses the character of regularly established high schools upon schools which comply with either of the last quoted requirements of section 5. As appears from the stipulation, the Humboldt evening high school was established by the board of education of the city and county of San Francisco in October, 1897. Section 1616 of the Political Code reads: "Boards of education are elected in cities under the provisions of the laws governing such cities, and their powers and duties are as prescribed in such laws, except as otherwise in this chapter provided." Under section 1 of an act entitled "An act to provide for the support of the common schools of the city and county of San Francisco and to define the powers and duties of the board of education thereof," approved April 1, 1872 (Stat. 1871-72, p. 846, chap. 576), the board of education of the city and county of San Francisco is given power "to maintain public schools as now organized in said city and county, and to establish additional ones as required, and to consolidate and discontinue schools, as may be deemed best for the public interest." That high schools may properly be included within the term "public schools" will hardly be questioned. Indeed, article 9, section 6, of the present constitution, quoted above, expressly makes



them a part of the "public-school system." This statute, therefore, in conferring upon the board of education of the city and county of San Francisco power to establish public schools, gave to it the power to establish high schools. The act, having been passed before the adoption of the constitution of 1879, was not affected by the restrictions contained in that instrument prohibiting the passing of local or special laws. (*Nevada School Dist. v. Shoecraft*, 88 Cal., 372, 26 Pac., 211.) It would appear clear, therefore, that the Humboldt evening high school is a school that has been organized under the law of the State. But, if there were any doubt as to the legality of the original organization of the school, two curative acts passed after its establishment, had the effect of obviating any defects existing at the outset, or, at least, of making it a school "recognized as existing under the high-school laws of the State." An act of March 15, 1901 (Stat. 1901, p. 299, chap. 140), provides that "all proceedings for the establishment of high schools heretofore established in incorporated cities are hereby declared legal;" and in 1905 the legislature amended section 1671 of the Political Code, including in said section a subdivision 11, providing that "all proceedings for the formation and organization of high-school districts and the establishment of county, city and county, union, joint union, and district high schools had prior to the passage and approval of this act are hereby validated and declared legal, and said high-school districts and high schools are hereby declared to be legally formed, organized, and established." It is well settled that the legislature has power to pass acts curing the failure to comply with statutory requirements that might originally have been dispensed with in the proceedings of municipal corporations. (6 *Am. and Eng. Ency. of Law* (2d Ed.), 941.) In the recent case of *Chase v. Trout*, 146 Cal., 350, 80 Pac., 81, this court fully expressed its views regarding the validity of curative acts. The statute there in question undertook to validate defective proceedings for the collection of taxes, but the principle declared is no less applicable to proceedings of the kind here involved. (See, also, *Baird v. Monroe* (Cal. Sup.), 80 Pac., 352.) If this school was in all other respects entitled to participate as a high school in the apportionment, these curative acts were clearly sufficient to bring it within the statutory definition of a "regularly established high school."

The further objection is made on behalf of respondent that the shortness of the daily session held in the school in question, i. e., two hours per day, takes the school out of the class of high schools contemplated by the law. While it appears that this session is considerably shorter than that regularly held in day high schools, we find no provision of law regulating the length of the daily sessions, with the exception of section 1673 of the Political Code, which provides that "no school must be continued in session more than six hours per day." No statute provides a minimum duration, and if the school complies with all the requirements of law, the fact that its sessions are of shorter duration than those of other high schools does not deprive it of the character of a regularly established high school or prevent it from participating in the benefits conferred upon regularly established high schools by the act of March 6, 1905. But while the facts already set forth do not, in our opinion, tend to show that the school in question is not a "regularly established high school of the State," and do not, therefore, furnish any reason for excluding it from the apportionment, we think that the stipulation of facts fails to show that the Humboldt evening high school, considered as a high school, complied with the provisions of section 5 of the act of March 6, 1905, as to employment of teachers and average daily attendance. It might be said that the answer, tested by strict rules of pleading, does not raise a clear issue on this point. It may, however, without straining the meaning of words, be construed as raising such issue, and inasmuch as this is a controversy between public officers, each of whom is doubtless desirous of ascertaining and performing his exact duty under the law, we are not disposed to allow any technical construction of the pleadings to prevent the consideration of a question whose determination is necessary to a proper understanding of the rights and obligations arising under the statute in question. The petition alleges, and it is not denied, that during the school year 1905-6 the Humboldt school employed 26 teachers for not less than one hundred and eighty days, and that the average daily attendance was 546 pupils. It appears that graduates of grammar schools have been admitted to said school without examination. (Political Code, sec. 1670, subdivision 13.) A course of instruction, extending over three years, and leading to a high school diploma, is given, but there is no suggestion that this course is such as to prepare graduates for admission to the State University. During the year 1905-6 the school had

a course of study known as "Course B," which extended for a period of five years, and which was adopted by the petitioner to comply with the admission requirements of the University of California. As we have seen, the act of March 6, 1905, limits the distribution of its benefits to schools which have maintained the grade of instruction required by law for the high schools. That grade of instruction, as declared by subdivision 12 of section 1670 of the Political Code, is "such as will prepare graduates therein for admission into the State University." If a school offers two courses, one of which falls short of this standard, it does not, as to such course, maintain the grade of instruction required by law of high schools. Accordingly, in the case at bar, the Humboldt evening high school is to be considered a high school only so far as concerns the instruction given and received in "Course B." But the stipulation does not disclose that it has the requisite number of teachers and pupils in this course. It is true that the parties agree that the school, as a whole, has 20 teachers and 546 pupils, but it nowhere appears how many of these teachers or pupils are engaged in high-school work and how many are occupied in the three-year course, which is not up to the high school standard. Unless that part of the school which can properly be regarded as a high school has two or more regularly certificated high school teachers and 20 or more pupils in average daily attendance, no right to apportionment under the statute arises. Here these conditions are not shown to exist. That in determining the right of a school to share in the benefits of this act, only those teachers and pupils engaged in high school work can be considered, is made manifest by the manner of the apportionment. Two-thirds of the fund is to go to schools in proportion to the number of pupils in attendance. This must mean the number of pupils who are receiving the grade of instruction required by law. It can not have been intended to distribute a high school fund to schools maintaining a certain grade of instruction and to base this distribution on the number of pupils to whom a lower grade of instruction is being given.

For these reasons we conclude that the petitioner has on the record before us failed to show any right in the Humboldt evening high school to participate in the allotment of the high school fund. If, however, it shall furnish to the respondent satisfactory evidence of compliance with the requirements of section 5 of the act of March 6, 1905, having regard solely to the teachers and pupils engaged and the equipment employed in "Course B" or any other course preparing pupils for admission to the State University, it will then be entitled to an allotment of the state fund, based, as to two-thirds of the fund, on the average daily attendance in such course or courses.

We may add that we attach no importance to the fact that "Course B" extends over five years. The only provision of law regulating the length of the course is that it "shall embrace a period of not less than three years." (Political Code, sec. 1670, subdivision 12.) That it may extend over a longer period than three years is clearly shown by subdivision 13 of section 1670, which contains a provision relating to schools "where the course of study embraces a period of four years."

The proceeding is dismissed.

We concur:

ANGELLOTTI, J.

HENSHAW, J.

LOBIGAN, J.

McFARLAND, J.

SHAW, J. I concur. I agree that the mere fact that the daily sessions of the Humboldt evening high school are of but two hours' duration does not deprive it of its character as a high school organized under the law of the State, or as a high school recognized as existing under the high school laws of the State. But I suggest that, in view of the practically universal custom of holding sessions of the public schools at least five hours each school day, and the manifest inequality and lack of uniformity in the law if it is held to give the same amount for its support to a school in session only two hours daily as is given to one in session three times as long and during each year imparting presumably three times as much training and instruction at three times the expense, it may be a serious question, if it ever arises, whether the "average daily attendance" for the "term of at least one hundred and eighty days" required of high schools to entitle them to receive state aid, under the statute, does not mean a daily attendance for one hundred and eighty days of, at least substantially, the same number of hours as is usual and customary. If the aid can be

secured by two hours' daily instruction for one hundred and eighty days—that is, by three hundred and sixty hours each year—instead of the customary nine hundred hours each year. why not by means of daily sessions for that period of one hour or less?

## STATUS OF KINDERGARTENS.

### IV. California.

[Los Angeles County v. Kirk, superintendent of public instruction (Supreme Court of California, December 27, 1905), 83 P. 250.]

In bank. Application by the county of Los Angeles for a writ of mandate, prayed to be directed against Thomas J. Kirk, superintendent of public instruction. Denied.

ANGELLOTTI, J. This is an application for a writ of mandate compelling the superintendent of public instruction of the State, in making his apportionment of the state school fund to the various counties, to include and consider, as a part of the average daily attendance of the schools of plaintiff, the attendance of children between the ages of 4 and 5 years who have been regularly admitted to the kindergarten classes established by the educational authorities of certain cities of plaintiff county. It appears from the petition that defendant proposes to include the attendance of such classes of children between 5 and 6 years of age, but, in view of his conclusion as to the effect of certain provisions of our codes, has determined that children between the ages of 4 and 5 years should not be included. We do not deem it necessary to consider the argument relative to this position of the defendant, for we have concluded that the point made by the attorney-general upon the argument, to the effect that under our law the attendance upon kindergarten classes can not be considered as a part of the attendance for purposes of apportionment of the state school fund, is well made. The rule laid down by the legislature for the guidance of the superintendent of public instruction in the apportionment of the state school fund is to be found in section 1532 of the Political Code, as amended March 18, 1905. It is there declared as follows, viz: "It is the duty of the superintendent of public instruction . . . Fourth. To apportion the state school fund . . . ; in apportioning said fund he shall apportion to every county and to every city and county two hundred fifty dollars (\$250) for every teacher determined and assigned to it on school census by the county or city and county school superintendent for the next preceding school year, as required; . . . and after thus apportioning two hundred fifty dollars on teacher or census basis, he shall apportion the balance of the state school fund to the several counties or cities and counties according to their average daily attendance as shown by the reports of the county or city and county school superintendents for the next preceding school year."

The question presented, it will thus be seen, is as to the meaning of the words "average daily attendance," as used in this section. It is admitted that in view of the provision of section 6 of article 9 of our constitution, declaring that "the entire revenue derived from the state school fund and from the general state school tax shall be applied exclusively to the support of primary and grammar schools," the corresponding provisions of sections 1622 and 1861, Political Code, and the decision of this court in *Stockton School District v. Wright*, 134 Cal., 64; 66 Pac., 34, only the attendance upon the primary and grammar schools is included within the words "average daily attendance," as used in this section. It was clearly shown in the case cited, where a similar provision regarding apportionment of state school moneys was construed, that it could never have been intended to include attendance upon other schools, such as high schools or evening schools, for the maintenance of which no part of the state school money could, under the law, be used. Plaintiff's case must therefore rest upon its claim that the kindergarten classes are, under the law, part and parcel of the primary schools of the State, that state school money may be appropriated to their maintenance, and that attendance thereon is attendance upon "primary schools" within the meaning of that term as used in the constitutional provisions quoted above. This is, in fact, the claim upon which plaintiff rests its case. The nature and object of kindergarten

classes were quite fully discussed in the case of *Sinnott v. Colombet*, 107 Cal., 187; 40 Pac., 329; 28 L. R. A., 504. It was there shown that the term "kindergarten" was devised to apply to a system elaborated for the instruction of children of very tender years, which, by guiding their inclination to play into organized movement and investing their games with an ethical and educational value, teaches, besides physical exercises, habits of discipline, self-control, harmonious action and purpose, together with some definite lesson of fact. It is apparent that the work contemplated by such a system is purely preliminary to, and entirely different in character from, the ordinary work of the common school, and is, in fact, designed to fit very young children, whose minds and bodies are, solely because of their tender age, not yet capable of the instruction contemplated in an ordinary school for such school work.

It may be conceded that the work contemplated is of such a character that it might, to some extent, be included by the legislature in the general primary school system of the State, just as it may be conceded that the legislature may extend the general grammar school course so as to include some subjects that have hitherto been pursued only in the more advanced schools, such as high schools. But the statutory provisions upon the subject of the kindergarten make it clear that the legislature has not made the same a part of the "system of common schools, by which a free school shall be kept up and supported in each district at least six months in every year," which, by section 5 of article 9 of the constitution, the legislature is required to provide, but, at most, has made it only a part of the "public school system" described in section 6 of the same article, in the same way that high schools, evening schools, normal schools, and technical schools established directly by the legislature or by municipal or district authority are parts of such public school system. The two constitutional provisions cited, taken together, contemplate (1) the establishment of a uniform system of "common schools," including solely the primary and grammar schools, which shall be applicable and mandatory in every school district of the State, as to which all local or special laws are expressly forbidden (constitution, subd. 27, sec. 25, art. 4), and to the support of which the entire revenue derived from the state school fund and the general state school tax shall be exclusively applied; and (2) the establishment, either by the legislature or by municipal or district authority, under statutes authorizing the same, of other schools, such as high and technical schools, which, however, can in no degree be supported from the state school fund, but must obtain their whole support from other sources. The intention of the framers of the constitution to devote the whole of the revenue of the state school fund and the general state school tax exclusively to the support of the schools included in the first class mentioned above, viz, those which are known as "common schools" and which by the constitution are required to be maintained in every district of the State, is too clear to admit of question.

Coming to a consideration of the only existing statutory provisions relative to kindergarten schools, we find the following, viz, section 1603, Political Code, provides that "the public schools of California, other than those supported exclusively by the State, shall be classed as high schools, technical schools, and grammar and primary schools [including kindergarten classes], and no teacher shall be employed to teach in any school if the certificate held by the teacher is of a grade below that of the school or class to be taught: \* \* \* *Provided*, That nothing herein contained shall be construed as prohibiting the employment of any person holding a valid special certificate for kindergarten work heretofore granted \* \* \* as a teacher in any kindergarten class of a primary school \* \* \*." Section 1602, Political Code, provides that "every school, unless otherwise provided by law, must be open for the admission of all children between 6 and 21 years of age residing in the district: \* \* \* *Provided*, That in cities and towns in which the kindergarten has been adopted or may hereafter be adopted as part of the public primary schools, children may be admitted to such kindergarten classes at the age of 4 years." \* \* \* Section 1617, Political Code, provides that "the powers and duties of trustees of school districts and of boards of education in cities are as follows: \* \* \* Ninth. To exclude from schools children under 6 years of age. *Provided*, That in cities and towns in which the kindergarten has been adopted, or may hereafter be adopted, as a part of the public primary schools, children may be admitted to such kindergarten classes at the age of 4 years."

These are the only provisions relative to the kindergarten that are to be found in our statutes. They show at most an intention on the part of the



legislature to authorize the maintenance by any district, at its option, of kindergarten classes for the doing of a special work preliminary to the beginning of what is generally designated as primary school work. The fact that it is entirely optional with any district to do or not to do this preliminary special work is alone sufficient to exclude kindergarten classes from the uniform and mandatory system of common schools called for by section 5 of article 9 of the constitution; and, consequently, from the term "primary and grammar schools," as those words are used in section 6 of the same article, in relation to the use which may be made of the general state school funds, and relegate them to that portion of the "public school system" which includes schools constituted by municipal or district authority and maintained from other sources. In view of this fact, the fact that the legislature may have declared that when the kindergarten is adopted by any district it shall be a part of the public primary schools, is unavailing, so far as the question under consideration is concerned. Such a declaration might make it a part of the public school system, maintainable from other sources than the state fund, but could not operate to bring it within the uniform and mandatory system of common schools applicable in every district, and to the support of which the general state funds must be exclusively applied, any more than could a declaration in regard to a technical or high school established by a district, to the effect that the same, if established, shall be a part of the public grammar schools, make such school a part of such system. It must be borne in mind that we are not in any way questioning the power of the legislature to add to or take from the course of study to be pursued in the "common schools" of the State, but are simply discussing the status of a system useful only for the training of children who have not attained the ordinary school age, which it is left optional with a district to adopt or not to adopt, in its relation to the "common schools" of the State, to which alone any portion of the general state fund may be devoted, and our conclusion is that it is no more a part of such common schools than is the high or technical school. Under these circumstances the case of *Stockton School District v. Wright*, supra, is conclusive against plaintiff's claim.

We have no disposition to question the correctness of the decision in *Sinnott v. Colombet*, supra. That case involved the question as to the right of a teacher holding a special certificate for kindergarten work to be paid for her services in teaching kindergarten classes from the "grammar and primary school fund" of the city of San Jose, which fund consisted of money levied and collected by said city for school purposes within its limits other than for the maintenance of high schools. The kindergarten system had been adopted by the city board of education as a special study to be taught in the public schools of said city. There was no question in that case as to whether the kindergarten so adopted had become a part of the "common school system" of the State, for the support of which general state school money could be used, and that question was in no way discussed. The decision, in effect, goes simply this far—that when a city has adopted this special system, the kindergarten becomes a part of the primary schools of such city; to the extent that it may legally be maintained at the expense of the city, just as a high or technical school may be so maintained, and does not compel a conclusion that the adoption by a district of this special system makes it a part of the "common schools" of the State, or a part of the "primary schools" of the State, within the meaning of those words as used in the constitution. To construe the decision as warranting any such conclusion would, in our judgment, make it clearly opposed to the plain intent of the constitution. We are inclined to the opinion that the language of section 6 of article 9 of the constitution is broad enough to authorize provision by the legislature for the establishment by districts, at their option, of kindergarten schools as a part of the public school system of the State, supported from other sources than general state school money. At any rate, there is therein no express prohibition of any such provision, and the case of *Sinnott v. Colombet*, supra, is authority for the proposition that this may be done.

The conclusion we have reached probably avoids all constitutional objections that may be successfully made to the legislation relative to the kindergarten. Construed in this way, such legislation does not conflict with the requirements of the constitution for a uniform system of common schools in every district of the State, for which alone the general state school money shall be used. This construction, we think, also overcomes the objection that if the kindergarten law is applicable only to "cities and towns," it is violative

of other provisions of the constitution relative to local or special laws. Regarding the kindergartens as a special mode of education, to be adopted and maintained at their own expense by such communities as desire them, there appear to be natural and intrinsic reasons which would warrant legislation making provision for their establishment in cities and towns, for we can not conceive that there could be any demand for or any possibility of the successful practical working of such a system outside of the centers of population, such as cities and towns, where there are a sufficient number of children of kindergarten age near enough to the school to avail themselves of the privilege thereof.

The alternative writ of mandate heretofore issued is discharged and the application for a peremptory writ is denied.

We concur:

McFARLAND, J.  
VAN DYKE, J.  
HENSCHAW, J.  
LOBIGAN, J.  
BEATTY, J.

SHAW, J., deeming himself disqualified, does not participate in the foregoing.

#### SECTARIAN INSTRUCTION—BIBLE READING.

##### V. New York.

[O'Connor v. Hendrick, school trustee, et al. (Court of Appeals of New York, April 17, 1906), 77 N. E., 612.]

Appeal from supreme court, appellate division, fourth department.

Action by Nora O'Connor against Patrick Hendrick, trustee of school district No. 9, town of Lima, and others. From a judgment of the appellate division (96 N. Y. Supp., 161, 169 App. Div., 361), affirming the judgment in favor of defendants, plaintiff appeals. Affirmed.

The plaintiff and Elizabeth E. Dowd, being teachers duly licensed to teach in the common schools of this State, entered into contracts with the board of trustees of school district No. 9, in the town of Lima, county of Livingston, in the autumn of 1902, to teach in the public school of said district for a term of thirty-six consecutive weeks at a specified rate of compensation. While so engaged in teaching they wore the distinctive dress or costume of a religious society connected with the Roman Catholic Church, of which they were members, which society is known as the "Order of the Sisterhood of St. Joseph." On May 28, 1903, the state superintendent of public instruction promulgated a decision made by him upon an appeal under the consolidated school law (Laws 1904, p. 1278, chap. 556, title 14), in which he declared that the wearing of an unusual dress or garb, worn exclusively by members of one religious denomination for the purpose of indicating membership in that denomination, by the teachers in the public schools during school hours while teaching therein, constitutes a sectarian influence and the teaching of a denominational tenet or doctrine, which ought not to be persisted in. The decision further declared it to be the duty of the school authorities to require such teachers to discontinue the wearing of such dress or garb while in the public school room and in the performance of their duties as teachers therein, and it directed Patrick Hendrick, one of the defendants herein, as sole trustee of school district No. 9, in the town of Lima, Livingston County, to notify the plaintiff and Elizabeth E. Dowd forthwith to discontinue, during the school hours of each school day, the wearing of the distinctive dress of the sisterhood to which they belonged, and commanded him to dismiss them if they refused to comply with this requirement. On May 29, 1903, the said Patrick Hendrick notified the plaintiff and Elizabeth E. Dowd of the contents of the decision. Notwithstanding this notification they continued to teach school wearing the prohibited garb up to June 19, 1903, which was the end of the school year. Mr. Hendrick, the school trustee, does not appear to have made any effort to remove or dismiss them. The present action was brought against him by the plaintiff, in her own behalf and as assignee of



the claim of Elizabeth E. Dowd, to recover a balance of \$79.20 alleged to be due under their contracts with the school district. Mr. Hendrick defended on the ground that the plaintiff and her assignor had lost all right to recover anything under their contracts by reason of the fact that they had continued to wear the distinctive costume of the religious sisterhood to which they belonged, while engaged in teaching, after they had received notice of the aforesaid decision of the state superintendent of public instruction. The other defendants, who were taxpayers allowed to intervene at their own instance, also interposed an answer setting up a similar defense. The case was tried by consent without a jury before a justice of the supreme court, who held that the plaintiff was entitled to recover \$25.20, being the amount of the compensation of the two teachers which had been earned, but not paid, prior to the time when they were notified of the superintendent's decision. He held, however, that the plaintiff and her assignor were not entitled to recover for any services rendered during the three weeks in which they continued to teach after the decision of the superintendent had been brought to their attention. From the judgment rendered at the trial term the plaintiff appealed to the appellate division, where that judgment has been affirmed by a divided court.

WILLARD BARTLETT, Jr. (after stating the facts). The real question in this case is whether the plaintiff and the plaintiff's assignor lost their right to any further compensation under their contract of service as teachers by reason of their refusal to comply with a regulation established by the state superintendent of public instruction, which in effect prohibited teachers from wearing a distinctive religious garb while engaged in the work of teaching. The order made by the superintendent on the subject was in form the decision of an appeal. The consolidated school law as then in force provided for certain appeals to the state superintendent of public instruction by any person conceiving himself aggrieved in consequence of any decision made by various officers, including a decision by the trustees of any district in paying any teacher. (Laws, 1894, p. 1278, chap. 556, title 14, sec. 1.) One Alfred K. Bates prosecuted an appeal under the statute to review the action of Patrick Hendrick as school trustee of school district No. 9, in the town of Lima, in employing the plaintiff and Elizabeth E. Dowd as teachers, and allowing them to teach while wearing the distinctive dress of the Roman Catholic religious order known as the "Sisterhood of St. Joseph," and it was upon this appeal that the superintendent promulgated the order prohibiting teachers from wearing the costume in question while engaged in the actual work of teaching. Neither the plaintiff nor Elizabeth E. Dowd was a party to the proceedings thus brought before the superintendent, nor does it appear that they had any knowledge of it while it was pending. It is plain, therefore, that it could have had no effect upon their rights considered as a judicial decision or prior adjudication. It seems to me, however, that it may be and should be viewed in another light, and, if thus regarded, that it constituted a rule of conduct which the plaintiff and her fellow-teacher were bound to obey. Although a decision in form, it was in fact a regulation in regard to the management of the common schools which the superintendent had the right to establish, provided, only, that it was reasonable in its character and not in conflict with the laws of the state or public policy.

While it is true that there is no express grant of authority to the state superintendent of public instruction (now the commissioner of education under unification act, Laws 1904, p. 94, chap. 40) in the consolidated school law to establish regulations as to the management of the common schools, the existence of a general power of supervision on his part over such schools is clearly implied in many parts of the statute. Among other things he was required, so far as he could consistently with his other duties, to visit such of the common schools as he saw fit, and inquire into their course of instruction, management, and discipline, and advise and encourage the pupils, teachers, and officers thereof. (Consolidated school law, Laws 1894, p. 1185, chap. 556, title 1, sec. 8.) The statute further prescribed that he should submit to the legislature an annual report containing, among other things, "a statement of the condition of the common schools of the State, and of all other schools and institutions under his supervision, and subject to his visitation as superintendent." (Laws, 1894, p. 1185, chap. 556, title 1, sec. 9, subd. 1.) It also gave him the power to remove any school commissioner or other school officer whenever it should be proved to his satisfaction that any such school commissioner had been guilty of any willful violation or neglect of duty under the statute or of "willfully disobeying any decision, order, or regulation" of the superintendent. (Title 1, sec. 13.)

The authority to remove an officer for the willful disobedience of a regulation of the superintendent necessarily implies a power on the part of the superintendent to make regulations; and, as has already been suggested, if the superintendent possessed the power to establish regulations in regard to the management of the common schools, the courts will not pronounce such regulations invalid unless they are unlawful or unreasonable. In arriving at a determination as to its validity a regulation in reference to the management of the common schools established by an officer under statutory authority is to be tested by rules similar to those which would apply in the case of a municipal ordinance, as to which the rule is that "ordinances passed in virtue of the implied power must be reasonable, consonant with the general powers and purposes of the corporation, and not inconsistent with the laws or policy of the State." (1 Dillon's Municipal Corporations (4th Ed.), section 319.) The rule which seems to be applicable here was enunciated and applied by the supreme court of Illinois in the case of *Rulison v. Post* (79 Ill. 567), where the statutory duties of school directors were under consideration, and it was said: "In the performance of their duty in carrying the law into effect, the directors may prescribe proper rules and regulations for the government of the schools of their district, and enforce them. They may, no doubt, classify the scholars, regulate their studies and their deportment, the hours to be taught, besides the performance of other duties necessary to promote the success and secure the well-being of such schools. But all such rules and regulations must be reasonable, and calculated to promote the objects of the law—the conferring of such an education upon all, free of charge." Another case involving a similar question is *Trustees of Schools v. People* (87 Ill. 303, 29 Am. Rep. 55), where it was held that a regulation by school trustees excluding a pupil from a high school because his father did not wish him to study grammar therein was arbitrary and unreasonable and could not be enforced.

We are thus brought to the question whether in this State a regulation is to be deemed unreasonable which prohibits teachers in the common schools from wearing a distinctively religious garb while engaged in the work of teaching. In my opinion it can not justly be so regarded. "Neither the State," says the constitution, "nor any subdivision thereof, shall use its property or credit or any public money, or authorize or permit either to be used, directly or indirectly, in aid or maintenance, other than for examination or inspection, of any school or institution of learning wholly or in part under the control or direction of any religious denomination, or in which any denominational tenet or doctrine is taught." (Constitution, art. 9, sec. 4.) Here we have the plainest possible declaration of the public policy of the State as opposed to the prevalence of sectarian influences in the public schools. The regulation established by the state superintendent of public instruction through the agency of his order in the Bates appeal is in accord with the public policy thus evidenced by the fundamental law. There can be little doubt that the effect of the costume worn by these Sisters of St. Joseph at all times in the presence of their pupils would be to inspire respect, if not sympathy, for the religious denomination to which they so manifestly belong. To this extent the influence was sectarian, even if it did not amount to the teaching of denominational doctrine. A different view was taken by the supreme court of Pennsylvania in the case of *Hysong v. School District* (164 Pa., 620, 654; 30 Atl. 482; 26 L. R. A., 203; 44 Am. St. Rep., 632), where it was held that school districts might employ as teachers sisters of a religious order of the Roman Catholic Church, and permit them while teaching to wear the garb of their order, provided no religious sectarian instruction should be given, nor any religious sectarian exercises engaged in. There was a dissenting opinion in that case, however, strongly reasoned in support of the conclusion that a school conducted similarly to that in the case at bar was in effect dominated by sectarian influence. The teachers, said Mr. Justice Williams in this dissenting opinion, "come into the schools, not as common-school teachers or as civilians, but as the representatives of a particular order in a particular church, whose lives have been dedicated to religious work under the direction of that church. Now, the point of the objection is not that their religion disqualified them. It does not. Nor is it thought that church membership disqualifies them. It does not. It is not that holding an ecclesiastical office or position disqualifies, for it does not. It is the introduction into the schools as teachers of persons who are by their striking and distinctive ecclesiastical robes necessarily and constantly asserting their membership in a particular church, and in a religious order within that church, and the subjection of their lives to the direction and control of its officers."

As to the reasonableness of the regulation prohibiting the use of a distinctive religious garb by teachers in the common schools, some other considerations may be mentioned. It must be conceded that some control over the habiliments of teachers is essential to the proper conduct of such schools. Thus grotesque vagaries in costume could not be permitted without being destructive of good order and discipline. So, also, it would be manifestly proper to prohibit the wearing of badges calculated on particular occasions to constitute cause of offense to a considerable number of pupils, as, for example, the display of orange ribbons in a public school in a Roman Catholic community on July 12. It is suggested in the brief of the learned counsel for the appellant that if the state superintendent could order these teachers to refrain from wearing their distinctive religious costumes he could just as lawfully direct them to don a dress of any other pattern, or compel a teacher to remove a gown because it was too plain or too gay, or that he might order the principal to cut off his beard or color his mustache. The obvious answer to these suggestions and others of a similar character is that no regulation would be valid which was manifestly unreasonable, because it would then be unauthorized by law.

The views which have already been expressed substantially dispose of all the points argued in behalf of the appellant, as well as those suggested in the dissenting opinion below, except the proposition that the state superintendent had no right to annul a valid contract between a teacher and the school district by which she was employed. The proposition is correct, but it has no application in the present case, because a contract between the trustees and the teacher of a common school is, by implication, subject to the power of the superintendent to make reasonable regulations as to the management of the school. This being the case, the superintendent does not annul a valid contract by insisting that such reasonable regulations shall be observed, for by entering into the contract the teacher assumes the implied obligation to obey such regulations.

It follows that the judgment appealed from should be affirmed with costs. In reaching this result, however, I do not wish to be understood as acquiescing in that part of the opinion below in which it is asserted that "these sisters should never be permitted to teach in our public schools." There is no reason either in morals or in law why they or any other qualified persons should not be allowed thus to teach, whatever may be their religious convictions, provided that they do not by their acts as teacher promote any denominational doctrine or tenet.

## VI. Texas.

[Church v. Bullock et al. (Supreme Court of Texas, April 8, 1908), 100 S. W., 115.]

Error to court of civil appeals of fifth supreme judicial district.

Mandamus by E. H. Church and others against W. L. Bullock and others, board of trustees of an independent school district, to command the trustees to desist from conducting certain exercises in the schools. There was a judgment of the court of civil appeals (100 S. W., 1025) affirming a judgment for defendants, and plaintiffs bring error. Affirmed.

Brown, J., we adopt the following statement of the case and the conclusions of fact made by the honorable court of civil appeals:

"This is an action for mandamus brought in the district court by appellees against the board of trustees of the public school of the city of Corsicana, appellees commanding said trustees to desist from conducting certain exercises in said school which are alleged to be religious and sectarian. Defendants answered by general denial and specially, in substance, that said exercises were neither religious nor sectarian in the sense prohibited by the constitution or laws of this State. A trial before the court without a jury resulted in favor of defendants, and the plaintiffs appeal. The evidence shows that E. H. Church does not believe in the inspiration of the Bible, that J. B. Jackson and Mrs. Lita Garrity are Roman Catholics, and that M. Cohen and Abe Levine are Jews. All of said parties have children and are patrons of said school. Mrs. Garrity and E. H. Church had protested to said trustees and teachers against the conducting of said exercises. Jackson, Cohen, and Levine had made no protest. The protest made had been disregarded by said trustees, and their action sustained by the state superintendent of public instruction. Said exercises were conducted in pursuance of the following resolution adopted by the board of school

trustees of the city of Corsicana, viz. 'Whereas, in the opinion of the board of school trustees of the Independent school district of the city of Corsicana, it would tend to draw the attention of the pupils away from other affairs and concentrate it upon the school work and would also tend toward an uplift of the moral tone of the student body, to have the daily sessions of our schools begin with appropriate "opening exercises," therefore it resolved by said board that the board will view with favor the inauguration by the superintendent of a morning "opening exercise" in the high school and in all the rooms of the several ward schools, in which a short passage of the Bible may be read, without comment, by the teachers in charge, the Lord's Prayer recited in concert, and appropriate songs sung by the pupils. It is not intended by the board, however, to herein prescribe the character of such opening exercises, but is simply desired to indicate to the superintendent and teachers that any reasonable regulations in regard to such morning exercises along the lines above indicated, established by the superintendent will have the sanction and approbation of the board.' The exercises complained of are: 'The most of the teachers (but not all of them) read every morning from the Bible to their classes, and the pupils in almost every room are invited to join in the recital of the Lord's Prayer, and in all the rooms songs are sung by the pupils, usually patriotic songs such as "America," and the songs usually found in the music books used in the public schools of Texas. These exercises are prescribed by the superintendent of the city schools under and by virtue of the resolution shown above, and constitute a part of the regular order of every day, and all children attending the public schools of Corsicana are expected to be present during such exercises, and are not excused therefrom, and are marked tardy if not present when such exercises begin. No pupil, however, is required by the teacher in charge to take any active personal part in such exercises, though all are invited by the teachers to do so, the pupils are not required by the teacher to repeat the Lord's Prayer or to join in the songs sung, but are invited to do so, and as a matter of fact as a general thing nearly all pupils join in the recital of the Lord's Prayer and in the singing. The only requirement made and enforced in the opening exercises of the school is that the pupil shall be present, and during the exercises behave in an orderly manner. The only attitude or posture which pupils are requested to assume during the exercises in question is that of bowing the head during the Lord's Prayer, and this is not required by the teachers of the pupils.' Since the said opening exercises have been held, beginning with the opening of the schools in September last, the selections from the Bible, which have been read in the several rooms of the schools, have been principally passages from the Old Testament, including selections from Psalms, Proverbs, and some of the old familiar stories from the Old Testament. The selections read from the New Testament are usually the sermon on the mount and passages of like tenor. In all reading the Bible used is King James's version. Since the practice of reading of the Bible was begun as aforesaid in said schools the reading by the several teachers has been without comment, explanation, or attempt at interpretation whatever.

"J. W. Cantwell, superintendent, testified in reference to the character of the exercises, as follows: Some of the teachers, but not all of them, read from King James's version of the Bible, without comment, select passages from the Old Testament, Psalms, and Proverbs, and also read appropriate Bible stories, also read from the sermon on the mount, in the New Testament, and the teachers repeat, in concert with the children, the Lord's Prayer, and sing appropriate songs. Witness warned the teachers not to read anything that would be objectionable from the New Testament. The songs that have been sung are mostly patriotic and selected from the song books used in the schools. The Bible stories read were such as the life of Moses, Joseph, and the other historical characters of the Bible. It was discretionary with the superintendent (witness) as to what portion of the Bible should be read, and he instructed the teachers what should and should not be read. The children are not compelled to join in repeating the Lord's Prayer, nor to join in the singing, but are invited to do so. The children are invited to join in the exercises, but are not required to do so. They are not required to repeat the Lord's Prayer or join in singing. They are required to be present, and are marked tardy if absent. The purpose of the exercises is for the moral instruction of the children. They are not sectarian. In preparing for a Christmas celebration in the primary department, in the room of Miss Sallie Evans, some songs were sung which were objected to by Rabbi Stolnitz as being sectarian, and I had it stopped. Witness instructed the teachers that they must not read any sectarian passages



from the Bible, nor sing any objectionable songs. The children are invited to stand up or bow their heads during the repeating of the Lord's Prayer, but are not forced to do so. They are expected to be orderly and respectful during the exercises, if they do not join in them. All of the teachers do not have the same exercises. Those teachers who use the Bible do not always do so, but vary by substituting standard works of literature. The reading of the Bible and repeating of the Lord's Prayer is not compulsory.

"The ten assignments of error presented by the appellants will be embraced in three propositions, to wit: (1) The said exercises converted the schoolroom into a place of worship, within the intent and meaning of section 6, art. 1, of the constitution. (2) The said exercises rendered the public schools 'sectarian' within the intent and meaning of section 7, article 1, and of section 5, article 7, of the constitution. (3) The said exercises converted the public schools into a sect, religious society, theological or religious seminary, within the intent and meaning of section 7, article 1, of the constitution.

"The sections of the constitution referred to are:

"ART. 1, SEC. 6. All men have a natural and inalienable right to worship Almighty God according to the dictates of their own consciences. No man shall be compelled to attend, erect, or support any place of worship or to maintain any ministry against his consent. No human authority ought, in any case whatever, to control or interfere with the rights of conscience in matters of religion, and no preference shall ever be given by law to any religious society or mode of worship. But it shall be the duty of the legislature to pass such laws as may be necessary to protect equally every religious denomination in the peaceable enjoyment of its own mode of public worship.

"SEC. 7. No money shall be appropriated or drawn from the treasury for the benefit of any sect or religious society, theological or religious seminary, nor shall property belonging to the State be appropriated for any such purposes."

"The provisions of article 7, section 5, relate to the school fund, and provide that none of said money shall ever be appropriated to or used for the support of any sectarian school."

We will consider the three propositions upon which the plaintiffs in error rest their case in the inverse order of their statement above.

First. Did the exercises complained of convert the public schools into a sect, religious society, theological or religious seminary? (1) It is scarcely necessary to discuss the proposition that the school was converted into a sect. The word "sect" is defined in the Standard Dictionary as "a body of persons distinguished by particularities of faith and practice from other bodies and adhering to the same general system." The exercises detailed in the testimony in this case did not show that these persons were associated together in any way whatever except in the character of a common public free school. (2) "A religious society is a voluntary association of individuals or families united for the purpose of having a common place of worship and to provide a proper teacher to instruct them in religious doctrines and duties, and to administer the various ordinances of religion."—(24 Am. and Eng. Ency. Law, 2d ed., 327.) The school, under the evidence, did not come within the definition of a religious society. (3) "A seminary is a place of education . . . specifically a school for the education of men for the priesthood or ministry."—(25 Am. and Eng. Ency. Law, 280.) A seminary being "a place of education," the adjectives "theological or religious" necessarily give to it the meaning of a place specifically for the preparation of men for the ministry, or at least for the teaching of religious doctrines. The words are commonly so used. The evident intention of the convention which framed the constitution was to prevent the legislature from endowing any such religious or theological schools. The school at Corsicana was organized under the laws of the State of Texas, and while it might be perverted in actual instruction to purposes foreign to its organization, it would not be a theological or religious seminary because some acts of worship were performed there.

Second. The word "sectarian" is defined by the Standard Dictionary as "pertaining to, peculiar to, or devoted to the interest of a sect or sects; especially, marked by attachment to a sect or denomination." However improper the exercises may have been, there is nothing in the evidence to show that they were in the interest of or forwarding the views of any one denomination of people. It was the purpose of the constitution to forbid the use of public funds for the support of any particular denomination of religious people, whether they be Christians or of other religions. The school was not rendered



sectarian within the meaning of the constitution by the exercises shown to have been indulged in by the teachers.

Third. Did the exercises which the evidence shows the teachers engaged in convert the schoolroom into "a place of worship" within the intent and meaning of section 6, article 1, of the constitution? A brief statement of the conditions that existed in Texas under the Mexican Republic will aid us to understand the provisions of our constitution. Prior to the revolution of 1836 the Catholic was the established religion of the Republic of Mexico, and all citizens of Texas were required to conform to the teachings of that church. It was supported by the Government, and by taxation the citizens were compelled to contribute thereto. One of the charges made against the Republic of Mexico in the declaration of independence was, "It denies us the right of worshipping the Almighty according to the dictates of our own conscience by the support of a national religion calculated to promote the temporal interests of its human functionaries rather than the glory of the true and living God." The third division of the declaration of rights in the constitution of the Republic of Texas reads as follows: "No preference shall be given by law to any religious denomination or mode of worship over another, but every person shall be permitted to worship God according to the dictates of his own conscience." The constitution of the State of Texas, framed in 1845, contains practically the same provision as is now embraced in the constitution of this State in these words: "Sec. 4. All men have a natural and indefensible right to worship God according to the dictates of their own conscience; no man shall be compelled to attend, erect, or support any place of worship, or to maintain any ministry against his own consent."—(Const. 1845, art. 1, sec. 4.) Thus we see that the provision in our constitution was a protest against the policy of Mexico in establishing and maintaining a church of state and compelling conformity thereto, and was intended to guard against any such action in the future. The primary purpose of that provision of the constitution was to prevent the legislature from in any way compelling the attendance of any person upon the worship of a particular church or in any manner, by taxation or otherwise, cause any citizen to contribute to the support of "any place of worship." As used in the constitution the phrase "place of worship" specifically means "a place where a number of persons meet together for the purpose of worshipping God." (State v. Swink, 20 N. C., 492.) The Century Dictionary gives this definition: "A building or part of a building set apart for any purpose—as a place of worship." The worship of God is not prohibited in any place, but we are of the opinion that the spirit of the constitution would include any place at which the worship might be indulged in so continuously and in such a manner as to give it the character of "a place of worship." Buildings and institutions erected and maintained by the State can not be used for such purposes. We do not undertake to state any rule as to what will constitute "a place of worship." That must necessarily depend upon the facts of each case. We confine ourselves to the decision of the question, Does the evidence show that the exercises engaged in by the teachers of the school at Corsicana constitute the school building "a place of worship" within the meaning of the constitution?

To hold that the offering of prayers, either by the repetition of the Lord's prayer or otherwise, the singing of songs, whether devotional or not, and the reading of the Bible, make the place where such is done a place of worship would produce intolerable results. The house of representatives and the senate of the state legislature each elect a chaplain, who, during the session, daily offers prayers to Almighty God in behalf of the State, and in the most express manner invokes the supervision and oversight of God for the lawmakers. In the chapel of the state university building a religious service, consisting of singing songs, reading portions of the Bible, with prayers and addresses by ministers and others, is held each day. The Young Men's Christian Association hold their services in that building each Lord's day, and the Young Women's Christian Association has a like service in another public building. At the blind institute on each Lord's day prayers are offered, songs are sung, Sunday school is taught, and addresses made to the children with regard to religious matters. Devout persons visit our prisons and offer prayers for those who are confined. An annual appropriation is made for a chaplain for the penitentiary. In fact, Christianity is so interwoven with the web and woof of the state government that to sustain the contention that the constitution prohibits reading the Bible, offering prayers, or singing songs of a religious character in any public building of the Government would produce a condition bordering upon moral anarchy. The absurd and hurtful consequences furnish a strong argument

against the soundness of the proposition. The right to instruct the young in the morality of the Bible might be carried to such extent in the public schools as would make it obnoxious to the constitutional inhibition, not because God is worshipped, but because by the character of the services the place would be made "a place of worship."

There is no difference in the protection given by our constitution between citizens of this State on account of religious beliefs; all are embraced in its broad language and are entitled to the protection guaranteed thereby; but it does not follow that one or more individuals have the right to have the courts deny the people the privilege of having their children instructed in the moral truths of the Bible because such objectors do not desire that their own children shall be participants therein. This would be to starve the moral and spiritual natures of the many out of deference to the few. The cases are in conflict upon the questions discussed in this opinion, but we believe the following sustain our conclusion by sound reasoning: *Moore v. Monroe*, 64 Iowa, 367; 20 N. W., 475; 52 Am. Rep., 444. *Pfeiffer v. Board of Education*, 118 Mich., 560; 77 N. W., 250; 42 L. R. A., 536. *Hackett v. Brooksville School*, 120 Ky., 608; 87 S. W., 792; 69 L. R. A., 592; 117 Am. St. Rep., 599.

The judgments of the district court and court of civil appeals are affirmed.

## HEALTH REGULATIONS—VACCINATION.

### VII. Illinois.

*People v. Board of Education of the City of Chicago* (Supreme Court of Illinois, April 23, 1908, rehearing denied June 9, 1908), 84 N. E., 1046.

Appeal from circuit court, Cook County; J. W. Miek, Judge.

Petition for mandamus by the people, on relation of Louise Jenkins, against the board of education of the City of Chicago. From a judgment dismissing the petition relator appeals. Reversed and remanded.

CARTWRIGHT, J. Louise Jenkins, by her next friend, filed her petition in the name of the people, in the circuit court of Cook County, against the board of education of the city of Chicago, and therein alleged that she was a resident of the city, 6 years of age, a daughter of D. F. D. Jenkins, a resident and taxpayer of said city, and that on October 29, 1907, she applied for admission as a pupil to the John Fiske School, which she was entitled to attend, and was denied admission to the said school by the board of education because she refused to be vaccinated, and she prayed for a writ of mandamus commanding the board to admit her to the public schools. The board of education answered, making no denial of the averments of fact contained in the petition, which were therefore admitted to be true, but setting up in justification of the exclusion of the relator an ordinance of the city of Chicago and instructions by the health department to enforce such ordinance. The relator demurred to the answer, and the court overruled the demurrer. The relator elected to stand by the demurrer, and judgment was entered against her, dismissing the petition and for costs. An appeal to this court was prayed for, and the trial judge certified that the validity of the city ordinance was involved, and in his opinion public interest required that an appeal should be taken direct to this court, in pursuance of section 118 of the practice act. (Laws 1907, p. 467.) The appeal was allowed and perfected, and the record has been filed in this court.

The constitution requires the general assembly to provide a thorough and efficient system of free schools, whereby all children in this State may receive a good common-school education, and the statute provides for establishing and keeping in operation such schools for the accommodation of all children over the age of 6 and under the age of 21 years. The right to attend the public school in the district where the relator resides is therefore given to her by the law, and the duty to admit her and to maintain the school rests upon the board of education. The legislature have never made it a condition precedent to the exercise of the legal right to attend the public schools that children shall be vaccinated, and the question whether power to do that exists is not involved in this case. The petition alleges, and the answer does not deny, that the defendants denied to the relator admission to the John Fiske School, but the

answer sets up as justification for the exclusion an ordinance of the city of Chicago. Not only have the legislature never prescribed vaccination as a condition to the enjoyment of the legal right to attend public schools, but they have never conferred upon cities the power to do so. If the city of Chicago has power to pass any ordinance on the subject, the power is derived from the authority conferred upon the city council to appoint a board of health and prescribe its powers and duties, to do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease, and to pass all ordinances and rules, and to make all regulations proper or necessary to carry into effect such authority. The ordinance set out in the answer was passed on March 20, 1905, and the only section relating to exclusion from schools is section 1255, which is as follows: "No principal or person in charge or control of any school shall admit to such school any child who shall not have been vaccinated within seven years next preceding the admission or application for admission to any such school of such child, nor shall any such principal or person retain in or permit to attend any such school any child who shall not have been vaccinated as provided in this article."

The general police powers above enumerated to pass ordinances and make regulations for the promotion of health or the suppression of disease do not include the passage of such an ordinance as this, which makes vaccination a condition precedent to the right to an education. An ordinance passed by reason of such authority must be reasonable in its character and rest upon the ground that it is a necessary means of preserving the public health. In the case of *Potts v. Breen* (167 Ill. 67; 47 N. E. 87; 39 L. R. A. 152; 59 Am. St. Rep. 262) it was held that the exclusion of a child from a public school because of a refusal to be vaccinated can only be justified where such a course is necessary, or reasonably appears to be necessary, in case of an existing or threatened epidemic of smallpox, and to prevent the spread of the disease. In the case of *Lawbaugh v. Board of Education* (177 Ill. 572; 52 N. E. 850) the court adhered to those principles, and declined to further discuss them, although earnestly urged to reconsider the former decision. Section 1255 is null and void and affords no justification for denying relator admission to the John Fiske School, whether the denial of her legal right was at the instance of the health commissioner, the health department, or any other authority.

The only other section of the ordinance which has any relation to schools, or which purports to give any authority respecting them to the health commissioner or health department, is section 1253, and it does not purport to give any authority to exclude children from schools. It provides that the commissioner of health, or any officer of the health department designated and authorized to act by such commissioner, shall have power to enter any of certain enumerated buildings and places, among which are schoolhouses, under certain circumstances, and that such commissioner or officer shall have power to vaccinate any person found in such building or place whom he shall deem it necessary or advisable to vaccinate. It further purports to authorize the commissioner, at any time when smallpox is prevalent or an epidemic of smallpox is or appears to be imminent, to vaccinate any person in the city whom he shall deem it necessary or advisable to vaccinate, provided that such person may be vaccinated by his own physician in a manner satisfactory to the commissioner. Although this section is set out at length in the answer, it is not alleged that the commissioner was attempting to vaccinate the relator, and no justification under its provisions is attempted.

Section 1035 of the ordinance purports to give to the commissioner of health power to make such rules and regulations in relation to the sanitary condition of the city and for the prevention and suppression of disease, not inconsistent with the municipal code, as he may deem necessary or advisable, but it provides that such rules and regulations shall not take effect and be in force until approved by the city council, except in cases of emergency. The answer does not allege that the commissioner of health made any rules or regulations or that any were approved by the city council. The section further provides that the commissioner may make rules and regulations for the preservation of the public health in case of an emergency from contagious or epidemic disease or danger from anticipated or impending contagious or epidemic disease, but such emergency rules and regulations shall, as soon as may be after the promulgating of the same, be reported to the city council for approval. Here, again, it does not appear that the commissioner acted under any provision of that section, or

made any rule or regulation, or reported any to the city council after promulgation.

These provisions of the ordinance are the only ones that could in any event have any relation to attendance upon the public schools, and the only one that was enforced against the relator was section 1255, which is null and void. The answer alleged as a matter of fact, that on October 29, 1907, the disease of smallpox was prevalent in the district in which the John Fiske School was located, within such a radius as to make it dangerous for all persons therein residing who had not been vaccinated; that the commissioner of health declared smallpox to be epidemic in said district, and instructions were given by the health department to exclude all children who had not been vaccinated in accordance with the terms of the ordinance. The terms of the ordinance are that no child shall attend the public schools who has not been vaccinated within seven years, and do not constitute a lawful exercise of any power conferred upon the city. The health commissioner is a purely ministerial officer and has no legislative powers whatever. The ordinance does not purport to give him authority to exercise such powers or to make any rules or regulations, except in cases of emergency, until they can be reported to the city council for approval or rejection. He can only be authorized to perform administrative duties in pursuance of some ordinance of the city, and there was no valid ordinance authorizing the exclusion of relator from the public school which she had a legal right to attend. There is nothing in the nature of an emergency in the occasional recurrence of the well-known disease of smallpox in a city like Chicago which may not be provided for by general rules and regulations prescribed by the legislative authority of the city. The board of education, which has charge of the public schools, has made no rule or regulation on the subject of such epidemics, and neither has the city council. The answer does not make known any ordinance, rule, or regulation for the exclusion from the schools of children not vaccinated in the event that an epidemic of smallpox exists in the vicinity of a school or is reasonably apprehended, and in our opinion the court erred in overruling the demurrer.

The judgment is reversed, and the cause is remanded to the circuit court, with directions to sustain the demurrer.

Reversed and remanded with directions.

### VIII. North Carolina.

[Hutchins v. School Committee of Town of Durham (Supreme Court of North Carolina, November 30, 1904), 40 S. E., 40.]

Appeal from superior court, Durham County; Bryan, judge.

Mandamus by J. W. Hutchins to compel the school committee of the town of Durham to admit plaintiff's daughter to the school. From a judgment for defendant plaintiff appeals. Affirmed.

CLARK, C. J. This is an application for a mandamus to the defendant public school committee to admit the daughter of the plaintiff to the public schools. The sole question presented is whether the following resolution is a reasonable exercise of the powers of the school committee of the city of Durham: "Whereas from the report and recommendation of Dr. N. M. Johnson, superintendent of health of Durham County, in the judgment of this committee, general vaccination of teachers and children attending the schools is desired and required for the public safety; Now, therefore, *Be it resolved*, That no teacher or pupil be allowed to attend any school of the city of Durham after April 1, 1904, who does not present to the principal of such school a certificate of a physician of the city showing that such teacher or pupil has been successfully vaccinated within three years from that time, unless such person has been vaccinated within ten days preceding the date he or she presents himself or herself for such attendance; and this resolution shall be a permanent regulation of the schools." An epidemic of smallpox prevailed in the city of Durham and its suburbs last spring, not less than 1,000 persons being attacked, and the above resolution was passed as a protection to the 2,500 children in the schools of that city, the attendance in which had fallen off 40 per cent by reason of the fear of contagion. These facts are averred in the answer and found to be true by the judge. In our judgment, the resolution was a proper and reasonable exercise of the powers of the defendant.

This is not a question of compulsory vaccination under legislative authority—that matter was before us and settled in *State v. Hay*, 126 N. C. 459, 35 S. E. 459, 49 L. R. A. 588, 78 Am. St. Rep. 691—but simply whether, if a child is not vaccinated, the school board can, as a precautionary measure, exclude all such from the school, by a resolution, under the power given in the charter to "have entire and exclusive control of the public school interest and property in the town of Durham, prescribe rules and regulations, . . . and do all other acts that may be just and lawful to conduct and manage the public school interests in said town." A similar resolution passed by the St. Louis board of public schools was held reasonable and valid in *re Rebenack*, 62 Mo. App. 8; the court saying: "In the nature of things, it must rest with the boards to determine what regulations are needful for a safe and proper management of the schools, and for the physical and moral health of the pupils intrusted to their care. If said regulations are not oppressive or arbitrary, the court can not or should not interfere." The same ruling was made as to a similar resolution in *Dunfield v. School Dist.*, 162 Pa. 476, 29 Atl. 742, 25 L. R. A. 152; the court holding: "A school board has power to adopt reasonable health regulations for the benefit of pupils and the general public, and has a right to exclude from the schools those who do not comply with the regulations of the city authorities and the school board requiring a certificate of vaccination as a condition of attendance." To the same purport it is said in *State v. Zimmerman*, 84 Minn. 353, 90 N. W. 783, 58 L. R. A. 78, 91 Am. St. Rep. 351; "The welfare of the many is superior to that of the few, and, as regulations compelling vaccination are intended and enforced solely for the public good, the rights conferred thereby are primary and superior to the right of any pupil to attend the public schools." In *Blue v. Beach* (Ind. Sup.) 56 N. E. 89, 50 L. R. A. 64, 80 Am. St. Rep. 195, it is pointed out that the constitutional guaranty that tuition shall be free and the schools equally open to all is necessarily subject to reasonable regulations to enforce discipline by expulsion of the disorderly, and protection of the morals and health of the pupils. The above cases are cited with approval in *State v. Hay*, 126 N. C. 459, 35 S. E. 459, 49 L. R. A. 588, 78 Am. St. Rep. 691. To same purport is *Sherman v. Charleston*, 8 Cush. 160, where Shaw, C. J., says: "The right to attend is not absolute, but one to be enjoyed by all on reasonable conditions."

The plaintiff relies upon *Potts v. Breen*, 167 Ill. 67, 47 N. E. 81, 39 L. R. A. 152, 59 Am. St. Rep. 262, that, in the absence of express legislative power, a resolution requiring vaccination as a prerequisite to attending schools is unreasonable when smallpox does not exist in the community and there is no reasonable ground to apprehend its appearance. We are not inclined to follow that authority. With the present rapid means of intercommunication, smallpox may make its appearance in any community at any moment without any notice given beforehand, and incalculable havoc be made, especially among the school children, which can not be remedied by a subsequent order excluding the non-vaccinated. "An ounce of prevention is worth a pound of cure." Besides, that case is not in point here, where smallpox had been epidemic and was still threatening. The language of the resolution making it "permanent" will not prevent its repeal if upon the subsidence of the danger the school board of that day shall deem it proper to repeal. If the action of the board is not satisfactory to the public, a new board will be elected who will rescind the resolution.

The fact that it would be dangerous to vaccinate the plaintiff's daughter, owing to her physical condition, would be a defense for her to an order for general compulsory vaccination (*State v. Hay*, supra), but is no reason why she should be excepted from a resolution excluding from the school all children who have not been vaccinated. That she can not safely be vaccinated may make it preferable that she herself should run the risk of taking the smallpox, but is no reason that the children of the public school should be exposed to like risk of infection through her or others in like case. Though the school children are vaccinated, there are always some whose vaccination is imperfect, and danger to them should not be increased by admitting those not vaccinated at all. Besides, a rule not enforced to all alike will soon cease to be a rule enforceable at all.

No error.



## IX. New York.

[*Viemelster v. White*, president of board of education, et al. (Court of Appeals of New York, October 18, 1904), 72 N. E., 97.]

Appeal from supreme court, appellate division, second department.

Application of Edmund C. Viemelster for writ of mandamus to Patrick J. White, president of the board of education of the borough of Queens, and others. From a judgment of the appellate division (84 N. Y. Supp., 712), affirming an order of the special term denying the writ, relator appeals. Affirmed.

VANN, J. The relator moved for a writ of mandamus to compel the officers having control of a public school in the county of Queens to readmit his child, a lad 10 years of age, to said school without requiring him to be vaccinated. It appeared from the moving papers that the boy had been in regular attendance at the school, and that the principal thereof, pursuant to the instructions of the board of education, had excluded him therefrom, because he refused to be vaccinated. It appeared from the papers read in opposition to the motion that when the relator's son was excluded from the school there was a regulation of the board of education in full force which provided that "no pupil shall be allowed to attend any school, nor shall any teacher be employed in the same, unless such pupil or teacher has been vaccinated." It further appeared that the lad had never been vaccinated, and that he refused to submit to vaccination; but it was not alleged that at the time of such exclusion smallpox was prevalent in the neighborhood, or that there was any special danger, from recent exposure or other causes, of an immediate spread of the disease.

The constitution requires the legislature to "provide for the maintenance and support of a system of free common schools, wherein all the children of this State may be educated." Constitution, article 9, section 1. The public-health law provides that "no child or person not vaccinated shall be admitted or received into any of the public schools of the State, and the trustees or other officers having the charge, management, or control of such schools shall cause this provision of law to be enforced. They may adopt a resolution excluding such children and persons not vaccinated from such school until vaccinated." Public-health law, Laws, 1893, page 1495, chapter 661, section 200, renumbered section 210 by Laws of 1900, page 1484, chapter 667, section 2. The same law provides for the free vaccination of children of suitable age who wish to attend the public schools, provided their parents or guardians are unable to procure vaccination for them. This is a reenactment of a statute containing the same provisions in substance, passed in 1860, which remained in force until the passage of the public health law in 1893. Laws, 1860, page 761, chapter 438.

The question presented is whether the legislature is prohibited by the constitution from enacting that such children as have not been vaccinated shall be excluded from the public schools. The appellant claims that the public-health law places an unreasonable restriction upon the right of his child to attend school, and that it violates the section of the constitution already quoted, as well as the general guaranties for the protection of the rights, privileges, and liberties of the citizen. Constitution, article 1, sections 1, 6. The respondents claim that the object and effect of such legislation is the protection of the public health, and hence that it is a valid exercise of the police power. The police power, which belongs to every sovereign State, may be exerted by the legislature, subject to the limitations of the constitution, whenever the exercise thereof will promote the public health, safety, or welfare. The power of the legislature to decide what laws are necessary to secure these objects is subject to the power of the courts to decide whether an act purporting to promote the public health or safety has such a reasonable connection therewith as to appear upon inspection to be adapted to that end. A statute entitled a health law must be a health law in fact as well as in name, and must not attempt in the name of the police power to effect a purpose having no adequate connection with the common good. As we have recently said, it "must tend in a degree that is perceptible and clear toward the preservation of the . . . health . . . or welfare of the community, as those words have been used and construed in the many cases heretofore decided." Health Department of New York v. Rec-tor, etc., 145 N. Y., 82, 80; 80 N. E., 833; 45 Am. Stat. Rep., 579. When the sole object and general tendency of legislation is to promote the public health, there is no invasion of the constitution, even if the enforcement of the law interferes to some extent with liberty or property. These principles are so well established as to require no discussion, and we cite but a few out of many

authorities relating to the subject. (Matter of Jacobs, 98 N. Y., 98, 106; 50 Am. Rep., 686. *People v. Marx*, 90 N. Y., 377; 2 N. E., 29; 52 Am. Rep., 34. *People v. Arensburg*, 105 N. Y., 123; 11 N. E., 277; 59 Am. Rep., 483. *People v. Gillson*, 109 N. Y., 389; 17 N. E., 343; 4 Am. Stat. Rep., 465. *People v. Ewer*, 141 N. Y., 120; 88 N. E., 4; 25 L. R. A., 794; 38 Am. Stat. Rep., 788. *People ex rel. Nechamcus v. Warden, etc.*, 144 N. Y., 529; 39 N. E., 686; 27 L. R. A., 718. *People v. Havnor*, 149 N. Y., 195; 43 N. E., 541; 31 L. R. A., 689; 52 Am. Stat. Rep., 707. *People v. Adirondack Ry. Co.*, 160 N. Y., 225, 236; 54 N. E., 689. *People v. Lochner*, 177 N. Y., 145; 69 N. E., 373.)

The right to attend the public schools of the State is necessarily subject to some restrictions and limitations in the interest of the public health. A child afflicted with leprosy, smallpox, scarlet fever, or any other disease which is both dangerous and contagious may be lawfully excluded from attendance so long as the danger of contagion continues. Public health, as well as the interest of the school, requires this, as otherwise the school might be broken up and a pestilence spread abroad in the community. So a child recently exposed to such a disease may be denied the privilege of our schools until all danger shall have passed. Smallpox is known of all to be a dangerous and contagious disease. If vaccination strongly tends to prevent the transmission or spread of this disease, it logically follows that children may be refused admission to the public schools until they have been vaccinated. The appellant claims that vaccination does not tend to prevent smallpox, but tends to bring about other diseases, and that it does much harm with no good.

It must be conceded that some laymen, both learned and unlearned, and some physicians of great skill and repute, do not believe that vaccination is a preventive of smallpox. The common belief, however, is that it has a decided tendency to prevent the spread of this fearful disease and to render it less dangerous to those who contract it. While not accepted by all, it is accepted by the mass of the people, as well as by most members of the medical profession. It has been general in our State and in most civilized nations for generations. It is generally accepted in theory and generally applied in practice, both by the voluntary action of the people and in obedience to the command of law. Nearly every State of the Union has statutes to encourage or directly or indirectly to require vaccination, and this is true of most nations of Europe. It is required in nearly all the armies and navies of the world. Vaccination has been compulsory in England since 1854, and the last act upon the subject, passed in 1898, requires every child born in England to be vaccinated within six months of its birth. It became compulsory in Bavaria in 1807; Denmark, 1810; Sweden, 1814; Wurtemberg, Hesse, and other German States, 1818; Prussia, 1835; Roumania, 1874; Hungary, 1876; and Serbia, 1881. It is aided, encouraged, and to some extent compelled, in the other European nations. (24 Enc. Brit., 80.) It is compulsory in but few States and cities in this country, but it is countenanced or promoted in substantially all, and statutes requiring children to be vaccinated in order to attend the public schools have generally been sustained by the courts. (*Abeel v. Clark*, 84 Cal., 226; 24 Pac., 383. *Blissell v. Davison*, 65 Conn., 183; 32 Atl., 348; 29 L. R. A., 251. *Blue v. Beach*, 155 Ind., 121; 56 N. E., 89; 80 Am. Stat. Rep., 195; 50 L. R. A., 64. *Morris v. City of Columbus*, 102 Ga., 792; 30 S. E., 850; 42 L. R. A., 175; 66 Am. Stat. Rep., 242. *State v. Hay*, 126 N. C., 909; 35 S. E., 469; 49 L. R. A., 598; 78 Am. Stat. Rep., 691. *Hazen v. Stroug*, 2 Vt., 427. *In re Rebenack*, 92 Mo., App. 8. *Duffield v. Williamsport School District*, 162 Pa., 476; 29 Atl., 742; 25 L. R. A., 152. *Cooley's Cons. Lim.* (7th ed.), 880. *Prentice on Police Powers*, 39, 132. 1 *Dillon's Mun. Corp.*, sec. 365. *Parker & Worthington's Public Health and Safety*, sec. 123.)

A common belief, like common knowledge, does not require evidence to establish its existence, but may be acted upon without proof by the legislature and the courts. While the power to take judicial notice is to be exercised with caution, and due care taken to see that the subject comes within the limits of common knowledge, still, when according to the memory and conscience of the judge, instructed by recourse to such sources of information as he deems trustworthy, the matter is clearly within those limits, the power may be exercised by treating the fact as proved without allegation or proof. (*Jones v. U. S.*, 157 U. S. 202, 216, 11 Sup. Ct. 80, 34 L. Ed. 691; *Hunter v. N. Y.*, 6, and *W. R. R. Co.*, 116 N. Y., 615, 628, 23 N. E. 9, 6 L. R. A. 246; *Porter v. Waring*, 69 N. Y., 250, 253; *Geist v. Detroit City R. R. Co.*, 91 Mich. 446, 51 N. W. 1119; *Greenleaf's Ev.* (14th Ed.) sec 5; 1 *Wharton's Ev.* (3d Ed.) sec 232; 1 *Starkie's Ev.* 211; 17 Am. and Eng. Encyc. (2d Ed.) 394.) Common belief, in order to

become such common knowledge as to be judicially noticed by us, must be common in this State, although in a matter pertaining to science it may be strengthened somewhat by the general acceptance of mankind. As was said by Mr. Justice Swayne in *Brown v. Piper*, 91 U. S. 37, 42, 23 L. Ed. 200: "Courts will take notice of whatever is generally known within the limits of their jurisdiction, and, if the judge's memory is at fault, he may refresh it by resorting to any means for that purpose which he deems safe and proper. This extends to such matters of science as are involved in the cases brought before him." See, also, *People v. Lochner*, 177 N. Y. 109, 69 N. E. 373.

The fact that the belief is not universal is not controlling, for there is scarcely any belief that is accepted by every one. The possibility that the belief may be wrong, and that science may yet show it to be wrong, is not conclusive; for the legislature has the right to pass laws which, according to the common belief of the people, are adapted to prevent the spread of contagious diseases. In a free country, where the government is by the people through their chosen representatives, practical legislation admits of no other standard of action; for what the people believe is for the common welfare must be accepted as tending to promote the common welfare, whether it does in fact or not. Any other basis would conflict with the spirit of the constitution, and would sanction measures opposed to a republican form of government. While we do not decide and can not decide that vaccination is a preventive of smallpox, we take judicial notice of the fact that this is the common belief of the people of the State, and with this fact as a foundation we hold that the statute in question is a health law, enacted in a reasonable and proper exercise of the police power. It operates impartially upon all children in the public schools, and is designed not only for their protection but for the protection of all the people of the State. The relator's son is excluded from school only until he complies with the law passed to protect the health of all, himself and his family included. No right conferred or secured by the constitution was violated by that law, or by the action of the school authorities based thereon. In view of the opinions below, we regard further discussion as unnecessary, and we affirm the order appealed from, with costs.

We concur:

CULLEN, C. J.  
O'BRIEN,  
HAIGHT,  
MARTIN,  
WERNER, J. J.

(Absent) GRAY, J.

Order affirmed.

#### X. Pennsylvania.

[*Stull v. Reber et al.* (Supreme Court of Pennsylvania, May 7, 1906), 64 A. 419.]

Appeal from court of common pleas, Franklin County.

Bill by Edward C. Stull against J. H. Reber and others for an injunction. From a decree dismissing the bill plaintiff appeals. Affirmed.

The bill, after reciting that the complainant was a resident and taxpayer of the borough of Waynesboro and that Grace Stull was his daughter, of the age of 14 years, continued as follows: "The said Grace Stull is now and has been since the beginning of the present school year or term, to wit, September 4, 1906, properly and justly enrolled as a pupil in and attending the common or public school known as 'A grammar school,' conducted in the Snider avenue school building situate in the third ward of the said borough; that she is in good health and is not suffering from any contagious or infectious disease, and is legally and justly entitled to continue to attend the said public school for the remainder of the school term or year and is entitled to remain enrolled as a pupil thereof. J. H. Reber is the superintendent of all the common or public schools of the said borough of Waynesboro; Charles H. Coover is the principal of the said Snider avenue school building and has charge of the schools therein conducted; Chester A. Gessaman is the teacher of said A grammar school in which your orator's said child, Grace Stull, is enrolled and in attendance as a pupil. There is not, at the time of the filing of this bill, nor has there been for many years, any person in the said borough of Waynesboro or within many miles

thereof suffering from smallpox (variola or varioloid). Charles H. Coover, principal of said Snider avenue school, and Chester A. Gesseman, teacher of said A grammar school conducted therein, have by order and direction of said J. H. Reber, superintendent of the common and public schools of the said borough, notified your orator and the said Grace Stull, his daughter, that she, the said Grace Stull, will be dismissed and excluded from the said A grammar school, conducted in the said Snider avenue school building, in which she is enrolled and in attendance as a pupil, on the 11th day of December, 1905. And the said J. H. Reber, superintendent, Charles H. Coover, principal, and Chester A. Gesseman, teacher, as aforesaid, defendants, in violation of their statutory duty and to the prejudice of the petitioner's right in the premises, threaten and intend to dismiss and exclude the said Grace Stull from the said school on the 12th day of December, 1905. Your orator avers that unless restrained by your honorable court the said defendants will carry out their said threat and dismiss and exclude the said Grace Stull from the said school, whereby both the said Grace Stull and your orator will suffer great and irreparable injury, for which there is no adequate remedy at law. The bill prayed for an injunction. The answer admitted the material averments of the bill.

The court found, *inter alia*, the following facts: There is not, at the time of the filing of this bill, nor has there been for a period of about forty years, any person in the said borough of Waynesboro, or within many miles thereof, suffering from smallpox (variola or varioloid). Occasionally it is beyond the power of children of school age as well as adults to be successfully vaccinated, although they may not previously have had smallpox nor previously been vaccinated; that even repeated attempts to perform the operation of vaccination upon such children or adults is without effect and vaccination will not take. In such cases vaccination is not successful and the physician can not certify that such child or adult has been successfully vaccinated. Sometimes a child may be suffering from a constitutional weakness or its system may be in such an unhealthy condition as to render the operation of vaccination exceedingly dangerous to said child. The court entered a decree dismissing the bill.

MITCHELL, C. J. The substantial question in this case is whether the act of June 18, 1885 (P. L., 203), requiring the exclusion from the public schools of children who have not been vaccinated, is a valid exercise of the police power of the State. It has been twice so decided by this court. In *Duffield v. School District of Williamsport*, 102 Pa. 470, 20 Atl. 742, 25 L. R. A. 152, a similar regulation, not even enacted by the legislature, but enforced by the school directors under an ordinance of the city of Williamsport, was held valid. And in *Fleld v. Robinson*, 198 Pa. 638, 48 Atl. 873, this very statute of 1875 was held constitutional. It appears to be thought that because the decision was given in a brief opinion per curiam the subject was not fully considered. But the proper inference is precisely the reverse, that the conclusion was so perfectly clear to the whole court that it did not require any extended argumentative support. After these two decisions the question ought to have been considered as closed. But we have it raised again, with small variations of facts and considerations, none of which are at all material.

On the constitutional question it is said that section 12 of the act contravenes sections 7 and 8 of article 3 of the constitution of 1874, in that it is local and special legislation, regulating the affairs of school districts. The terms of the act apply expressly to the "several municipalities" of the State, and it is argued that they do not include school districts in townships, and therefore make an unwarranted distinction in regard to such districts. Whether townships are municipalities within the intent of the act it is not now necessary to consider. Even if not, the separate classification of school districts in cities and boroughs with reference to public health where population is dense and the danger of contagion great would not be unconstitutional. *Sugar Notch Borough*, 192 Pa. 340, 43 Atl. 985. But the act is in no proper sense a regulation of school districts. It is an act entitled "For the more effectual protection of the public health in the several municipalities of the Commonwealth," and is a general statute on that subject. What bearing it has on schools and school districts is altogether incidental to them as constituents of the community. The constitutional restrictions on special legislation apply to direct legislation, not to the incidental operation of the statutes constitutional in themselves upon other subjects than those with which they directly deal. *Sugar Notch Borough*, 192 Pa. 340, 43 Atl. 985.

It is further said that section 42 contravenes section 1 of article 10 of the constitution of 1874, requiring the maintenance of an efficient system of public



schools wherein all children above the age of 6 years may be educated. It is sufficient to say that this article, like all others, must be construed and applied in connection with other fundamental governmental powers. The schools and school children, important as they are, are only fractions of the community, and the police power of the Commonwealth in the preservation of the public health must, if necessity arises, sacrifice the less to the greater interest. *Salus populi suprema lex*. If a child manifestly suffering from smallpox in its contagious stage should be excluded from school, it is hardly conceivable that the propriety of such action should be questioned. At what period before or after the outbreak of the disease the right of exclusion should arise is a legislative, not a judicial, question. As said by our late Brother Williams in *Duffield v. School District*, 162 Pa. 476, 29 Atl. 742, 25 L. R. A. 152, already cited: "It is conceded that the board might rightfully exclude the plaintiff's son if he was actually sick with or just recovering from the smallpox. Though he might not be affected by it, yet if another member of the same family was, the right to exclude him, notwithstanding he might be in perfect health, would be conceded. How far shall this right to exclude one for the good of many be carried? That is a question addressed to the official discretion of the proper officers; and when that discretion is honestly and impartially exercised the courts will not interfere." These words, it should be remembered, were written with reference to authority exercised under a city ordinance, and a fortiori when the police power of the State intervenes under the authority of a statute its directions are commands that may not be disputed.

It is further argued that sections 11 and 12 of the act should be read together, and the right under section 12 to exclude unvaccinated children should be confined to the schools in the districts mentioned in section 11, namely, those in which smallpox is actually prevalent. But this is manifestly not the legislative intent. Section 11 deals with a present and immediate danger, with persons, dwellings, and places where the disease actually prevails, and its prohibition includes adults as well as children, vaccinated or not. Section 12, on the contrary, is a cautionary and prospective regulation, having in view not the actual presence of the disease, but its appearance in the future. The objects of the two sections are distinctly different. In this connection the learned judge below found as a fact, "that there is not at the time of the filing of this bill, nor has there been for a period of about forty years, any person in the said borough of Waynesboro, or within many miles thereof, suffering from smallpox (variola or varioloid)." It is argued that this feature distinguishes the case from those heretofore decided by this court. But the language of the act is general and its intent plain. The legislature may well have had in mind that the good fortune of such a community may not continue indefinitely. Immunity for forty years in the past affords no guaranty of immunity for even forty days in the future, if a chance visitor from an infected locality or a borough resident returning from a visit to such locality should bring with him the germs of infection. Section 12 is precautionary and preventive, and it is an old and sound maxim that an ounce of prevention is worth a pound of cure. There is one hardship in the twelfth section that may deserve consideration with a view to a possible remedy. The court below found as a fact "that occasionally it is beyond the power of children of school age, as well as adults, to be vaccinated, although they may not previously have had smallpox nor previously been vaccinated; that even repeated attempts to perform the operation of vaccination upon such children or adults is without effect, and vaccination will not take. In such cases vaccination is not successful and a physician can not certify that such child or adult has been successfully vaccinated." The health authorities, state or local, might well consider whether they have power to make a regulation as to what should be deemed a successful vaccination or its equivalent; whether the ratio of such immune children is of sufficient importance to justify the exercise of such power if possessed; and whether such regulation would be undesirable as affording opportunity for the evasion of the statute. The latter, however, are medical and administrative, rather than judicial, questions.

Lastly, it is argued that, construing section 12 as we have done, it authorizes a trespass upon the reserved rights of the individual which are beyond the reach of even the police power. Vaccination, it is said, is the infliction of a disease—cowpox—on the subject, and if that can be done irrespective of his consent, then the next step may be to require submission to inoculation with antitoxin or serum for diphtheria, tuberculosis, cancer, etc., and we have rather a dismal picture of the possible consequences. It will be time enough to consider



such matters when they arise. At present the vast preponderance of opinion among intelligent and educated people, under the guidance of the best medical authority, is that vaccination is a highly useful and effective, if not always a preventive, of one of the greatest scourges that have in past times afflicted humanity, and that the regulation of it by statute is not only a justifiable, but a wise and beneficent exertion of the police power over the public health. When the legislature goes beyond that into new or more debatable fields, it will be time enough to consider the limits of its power.

One expression in the opinion of the court below and in some of the cases cited in the argument requires a passing note. The act is not a penal statute. It is a broad, general act relating to the health of the whole population of the Commonwealth. It is not, therefore, to be construed or administered by the rigid technical rules applicable to penal laws, but fairly according to its intent, neither narrowing it to the letter, to the exclusion of cases clearly within such intent, nor stretching it beyond its legitimate scope to cover matters not clearly meant to be included. It is an act touching very closely common rights and privileges and therefore specially requiring a common-sense administration.

Decree affirmed.

## DISCIPLINE—RULES AND REGULATIONS.

### XI. Illinois.

#### HIGH SCHOOL FRATERNITIES.

[Wilson v. Board of Education of Chicago (Supreme Court of Illinois, Apr. 23, 1908), 84 N. E., 697.]

Error to appellate court, first district, on appeal from superior court, Cook County, W. M. McEwen, judge.

Bill by Eberle L. Wilson against the board of education of Chicago. From a decree dismissing the bill for want of equity, affirmed by the appellate court, complainant brings error. Affirmed.

This is a writ of error sued out of this court to review a judgment of the appellate court affirming the decree of the superior court of Cook County sustaining a demurrer to the bill and dismissing it for want of equity. The bill was filed by four minors, by their next friends, to enjoin defendant in error, the board of education of the city of Chicago, from enforcing a certain rule adopted by said board and to have said rule declared null and void. The rule reads as follows: "The committee on school management reports that it is in receipt of the following report from the superintendent of schools and recommends concurrence therein: 'The superintendent of schools respectfully reports that, in accordance with the action of the board of education, taken at its last meeting, he has considered the matter of secret societies in the high schools, and respectfully recommends that the principals and teachers of the high schools be instructed to deny any secret societies which may now exist in their schools all public recognition, including the privilege of meeting in the school buildings; that such organizations be forbidden to use the school name; that no student who is known to be a member of a fraternity or sorority, or other so-called secret society, be permitted to represent the school in any literary or athletic contest or in any other public capacity; that the attention of parents of the pupils who are to attend the public high schools be called to the fact that the board of education, the superintendent and teachers of the high schools unanimously condemn all such secret societies.'" The bill alleges that complainants are all under 21 years of age and are attending the Hyde Park High School, one of the public schools of the city of Chicago, and are pursuing the course of study prescribed by the rules of the board of education, and obeying all lawful rules of said board and of the teachers employed by it; that complainants are members of an organization known as "Phi Sigma Fraternity," an organization not connected with, but distinct from, said Hyde Park High School; that the meetings of said organization are held after school hours; that said fraternity is a large association, having various branches and chapters located in various

States; that the chapter in Hyde Park was organized in 1897; that the aim of the society is to stimulate loyalty and fidelity to the teachers and schools, and a desire for a high scholarship and commendable individual action; that said society is not opposed or in any manner detrimental to the welfare of the school; that complainants and other pupils belonging to it live with and are under the control of their parents and have their consent to be members of said association. The bill further alleges that there are 1,200 pupils in attendance at the Hyde Park High School, and that there are a number of associations of the pupils of said school, such as literary, musical, athletic, and class organizations, and that many of the members of said organizations are members also of various fraternities. The bill further alleges that the board of education had recently sent out notice that the rule would be rigidly enforced, and that the complainants have, by reason thereof, been prevented, under threat of expulsion, from taking part in any literary or athletic contest held under the auspices of said school, and have been deprived of positions in said associations to which they had been elected by other pupils, and are denied the right to resume the said positions because of their membership in such fraternities; that participation in the exercises of the societies and associations of the said school is beneficial to pupils, and is freely granted to all except complainants and others who are members of secret societies. The bill charges that the adoption of said rule was the exercise of an arbitrary power by the board of education, violative of the natural rights of complainants and an unlawful discrimination against them, and is therefore null and void. The prayer is that the rule be declared void, and that the board of education be enjoined from enforcing or attempting to enforce it. The superior court sustained a demurrer to the bill and dismissed it for want of equity. Plaintiff in error, one of the complainants, prosecuted an appeal from that decree to the appellate court for the first district. That court affirmed the decree of the superior court, and the case is brought to this court for review upon a writ of error to the appellate court.

FARMER, J. (after stating the facts as above). The constitution of this State provides that "the general assembly shall provide a thorough and efficient system of free schools, whereby all children of this State may receive a good common school education." Section 1, article 8. By act of the general assembly, the public schools of the city of Chicago are under the control of the board of education, and it is given all power and authority required for the proper management of the schools, with power to enact such ordinances as may be deemed necessary and expedient for such purpose; also power to expel pupils who are guilty of gross disobedience or misconduct. It is made the duty of the board of education "to establish all such by-laws, rules, and regulations for the government and for the establishment and maintenance of a proper and uniform system of discipline in the several schools as may, in their opinion, be necessary."

Counsel for plaintiff in error does not question the power of the board of education to prescribe all reasonable rules necessary for the conduct and management of the public schools, but insists that the rule here involved was not a reasonable rule; that it was in violation of the natural rights of plaintiff in error, and an unlawful discrimination against him; and that this is a question of law to be determined by the courts. It is not claimed nor averred in the bill that plaintiff in error was deprived, by the rule in question, from attendance at the school, nor from taking his place in the classes to which he belonged and pursuing his studies and receiving instruction the same as all other pupils in the school in the course of studies taught therein. It appears from the averments of the bill that there were associations permitted to be organized among the pupils of said Hyde Park High School, principally for literary, musical, and athletic exercises and contests; but these were not a part of the course of study required to be pursued by pupils attending said school, and were not within the contemplation of the constitution nor of the act of the legislature in providing a system whereby all the children of the State may receive a good common school education. The power of the board of education to control and manage the schools and to adopt rules and regulations necessary for that purpose is ample and full. The rules and by-laws necessary to a proper conduct and management of the schools are, and must necessarily be, left to the discretion of the board, and its acts will not be interfered with nor set aside by the courts, unless there is a clear abuse of the power and discretion conferred. Acting reasonably within the powers conferred, it is the province of the board of education to determine what things are detrimental to the successful management, good order, and discipline of the schools and the rules required to pro-

duce these conditions. It was the judgment of the superintendent of schools of the city of Chicago, as well as of the board of education, that membership in secret societies, known as Greek-letter fraternities or sororities, was detrimental to the best interests of the schools. Whether this judgment was sound and well founded is not subject to review by the courts. The only question for determination is whether the rule adopted to prevent or remedy the supposed evil was a reasonable exercise of the power and discretion of the board. The rule required teachers to refuse to give public recognition to such secret societies, to refuse to allow their meetings to be held in the school buildings, or to allow the name of any school to be used by the organizations. The rule also required teachers to refuse to allow a member of a fraternity or sorority to represent his school in any literary or athletic contest or in any other public capacity; that parents of the pupils be informed that the board of education, the superintendent, and teachers in the high schools unanimously condemned all such secret societies. The rule denied to pupils who were members of secret societies no privilege allowed to pupils not members, except the privilege of representing the schools in literary or athletic contests or in any other public capacity. They were not denied membership in associations of pupils of the schools for literary, social, musical, or athletic exercises, and were not prohibited from receiving the same benefits from those organizations that pupils not members of secret societies received. They were only prohibited from representing the schools as members of those associations in public contests and capacities. This was not a denial of any natural right, and neither was it an unlawful discrimination.

*People v. Wheaton College*, 40 Ill. 186, was a mandamus proceeding against the college to compel the reinstatement of a student who had joined the Good Templars in violation of the college rules, and had for that reason been suspended from the privileges of the college until he expressed a purpose to conform to its rules. The court said: "Wheaton College is an incorporated institution, resting upon private endowments, and deriving no aid whatever from the State or from taxation. Its charter gives to the trustees and faculty the power 'to adopt and enforce such rules as may be deemed expedient for the government of the institution'—a power which they would have possessed without such express grant, because incident to the very object of their incorporation and indispensable to the successful management of the college. Among the rules they have deemed it expedient to adopt is one forbidding the students to become members of secret societies. We perceive nothing unreasonable in the rule itself, since all persons familiar with college life know that the tendency of secret societies is to withdraw students from the control of the faculty and impair to some extent the discipline of the institution. Such may not always be their effect, but such is their general tendency. But, whether the rule be judicious or not, it violates neither good morals nor the law of the land, and is therefore clearly within the power of the college authorities to make and enforce." *Kinzer v. Directors* (129 Iowa, 441; 105 N. W. 686; 3 L. R. A. (N. S.), 490) was a mandamus proceeding to compel the board of directors of Marion school district, Iowa, to reinstate in the high school a pupil who had been suspended therefrom by the board of directors until he should apologize to the superintendent, before the school, for his willful violation of a rule adopted by the board. The rule prohibited playing football under the auspices of the high school or on the school grounds. The pupil who was suspended, acting with others, caused a poster to be printed advertising a game of football to be played by the west branch of the high school and the high school on a Saturday, for which an admission fee of 25 cents was charged. The authority of the board to adopt the rule was challenged by the petitioner, and it was also contended by him that his conduct was not a violation of the rule. Both these contentions were decided in favor of the board of directors. The court said: "It was plainly intended, therefore, that the management of school affairs should be left to the discretion of the board of directors and not to the courts, and we ought not to interfere with the exercise of discretion on the part of a school board as to what is a reasonable and necessary rule, except in a plain case of exceeding the power conferred." In *Wayland v. Hughes* (43 Wash., 441; 80 Pac. 642; 7 L. R. A. (N. S.), 352) the validity of a rule substantially the same as the one here in question was passed upon by the supreme court of the State of Washington. The board of education of Seattle, after an investigation of the probable effect of Greek letter societies or fraternities upon pupils in the schools, in 1901 adopted a rule prohibiting

pupils from becoming members of such societies. George Wayland, while a pupil in the public school, in violation of the rule, became a member of a fraternity, as did also other pupils. In May, 1905, the board of education amended its former rule so as to provide that all pupils who were then members of any high school secret society, or pledged to become such, who would promise that so long as they remained pupils of said high school they would not become members of any other secret society or give any promise or pledge to become such, or solicit any other pupil to give any promise or pledge to become a member of any high school fraternity or secret society, and in good faith kept such promise, would be restored to the privileges of such school, but that all students who thereafter should become members or in any way pledge or bind themselves to join any high school fraternity or secret society, or should initiate or pledge any other student, or in any way encourage or foster the fraternity spirit in the high school should be denied all the privileges of the high school, except those of the schoolroom. Wayland brought suit against the board of education to enjoin it from enforcing this rule. The material allegations in his petition were in substance similar to the allegations of the bill in this case. An answer was filed by the board of education and a hearing had. The trial court refused the relief prayed, and an appeal was prosecuted to the supreme court. That court affirmed the judgment of the trial court, and in an able and exhaustive opinion passed upon every material question here involved, and we agree with the reasoning of the opinion and the conclusion reached by that court. We quote from the opinion the following: "The board has not excluded the appellant from the Seattle high school, neither has it threatened to expel or suspend him. He can and does attend school, and under our construction of the rules adopted he is at the same time permitted to continue his membership in the Gamma Eta Kappa fraternity, although in doing so he opposes the authority of the board and thereby forfeits certain privileges which are no necessary part of the curriculum or class work, from which he is not excluded. Respondents are only seeking to prevent appellant and his associates from dictating the terms on which they shall enjoy certain privileges which are merely incidental to the regular school work, and this they have authority to do. Appellant further contends that as the fraternities meet out of school hours at the homes of members, and at no time in the school building, and, as their parents consent to this action, the board is exceeding its lawful authority in entering their homes, in withdrawing from parents the control of their children, and in dictating what the children shall or shall not do out of school hours. We think this contention unreasonable. The board has not invaded the homes of any pupils, nor have they sought to interfere with parental custody and control. They have not said these fraternities shall not meet at the various homes, nor have they attempted to control students out of school hours."

What was there said is applicable to this case. The rule adopted by the board of education, and which is set out in full in the bill, shows upon its face that it was not the result of hasty and ill-considered action. At a previous meeting the board had instructed the superintendent of schools to investigate the effect of secret societies upon the schools, and upon his report that he had made the investigation, and upon his recommendation, the rule was adopted. Assuming, as we must, that the adoption of the rule was not an abuse of power or discretion conferred by law upon the board, courts can not, and should not, interfere with its enforcement. Pupils attending the schools may decide for themselves whether they prefer membership in the secret societies, with the disqualification from representing their schools in literary or athletic contests or other public capacities, or whether they prefer these latter privileges to membership in said societies. It is for the board of education, within the reasonable exercise of its power and discretion, to say what is best for the successful management and conduct of the schools, and not for the courts.

In our opinion the bill was properly dismissed, and the judgment of the appellate court is affirmed.

Judgment affirmed.



## XII. Wisconsin.

[State v. District Board of School District No. 1 (Supreme Court of Wisconsin, May 8, 1908), 116 N. W. 232.]

Appeal from circuit court, Polk County; A. J. Vinje, judge.

Mandamus by the State, on the relation of L. B. Dresser, against the district board of school district No. 1, St. Croix Falls, Polk County, to compel reinstatement of relator's children after suspension from the high school. Writ denied, and relator appeals. Affirmed.

This is an action of mandamus commenced by the relator against the district board and G. J. Baker, principal of the high school of St. Croix Falls, to compel the reinstatement of two of relator's children who had been suspended by the principal. The petition, after the formal averments, states, in substance, that relator's two minor children had been continuous in their attendance upon the high school up to and including October 16, 1906, on which date they were suspended by the principal; that said suspension was illegal but had been ratified by the district board and still continued in force; that said children can not be readmitted to said school "unless they should apologize with a falsehood;" that the alleged cause of suspension of said children was a harmless act by them and three other pupils of the high school, which occurred after the schools had closed on October 10, 1906, and not during school hours, or in the building where the school was maintained, or while said children were under the control of said principal; that at the request of a member of the senior class, who had written a harmless poem, being a take-off on the rules of the school, the offending pupils, who were younger and less experienced, took the writing to the office of a weekly newspaper published in the same village, and requested the publisher to print the same in his paper if there was nothing wrong in it; that the publisher, deeming the same harmless, published it in part of the next issue of the paper. The poem was printed as part of the petition, but it is here omitted. It is alleged that the deportment of the children in school had been good, and they had never violated any of the rules prescribed for its management. An alternative writ was issued on November 7, 1906, based upon the petition, with supporting affidavits. The defendants in the return to the writ state, in substance, their belief that the publication of the poem in question in a public newspaper was detrimental to the interests of the school; that it not only tended to hold up said school, its discipline, and its teachers to public contempt and ridicule, but it tended toward awakening in the minds of the pupils themselves a feeling of hostility toward the teachers and a defiance toward the proper control and management of the school; that after the offense had been committed the children were advised of the harmfulness of their conduct and required to apologize, and upon their refusal they were suspended; that their reinstatement without suitable apology would be detrimental to the interests of the school and subversive of proper discipline therein; wherefore they ask that the petition be denied.

The relator demurred to this return on November 14, 1906. Thereupon the court, as appears by recitals in the subsequent findings, appointed a referee with the consent of the attorneys for the respective parties to take and report the evidence relating to the precise grounds of suspension of relator's daughters, and the substance of what was said between the teachers and said pupils previous to and at the time of their suspension. The referee made his report on the 30th day of November, which contains the testimony of the principal and two of his associates and of three of the pupils, including the relator's children. The principal testified that after he learned that the relator's children had taken the poem to the printing office, "I then told them that their penalty is that you are suspended until you apologize and pay 40 cents each." In the apology, "they were simply to admit that they did a wrong thing, that they were sorry for it, and if they came back to school they should promise to be obedient students." The other witnesses gave substantially the same testimony. Thereafter and on December 24, 1906, the court filed an opinion sustaining the action of the school authorities and in conclusion overruled the relator's demurrer to the return, and dismissed his motion for a peremptory writ of mandamus, with costs. There was no request made on behalf of the relator to withdraw the demurrer and to file an answer, and no formal application was made to amend the petition until after the entry of judgment. No further testimony was taken, and on December 23, 1906, the court made and filed its findings in favor of the



defendants, and directing the dismissal of the petition. From the judgment entered thereon, bearing the same date, this appeal is taken. Thereafter and at a special term of said court, and on the 31st day of January, 1907, a petition theretofore filed on behalf of the relator, based on the evidence taken before the referee, asking leave to amend the petition by adding the words "and pay forty cents each," in their proper place, relating to the penalty imposed at the time of the suspension, came on to be heard, and was denied by the court. There was an exception to the order, but no appeal has been taken therefrom.

BASHFORD, J. (after stating the facts as above). The procedure adopted in determining the issues presented by the pleadings in this action was informal and irregular and can not be approved. The demurrer to the return raised an issue of law, which should first have been disposed of, and, if overruled, leave should have been given to the relator, if he so desired, to withdraw the same and amend his petition, or to interpose an answer if an issue of fact was to be presented. The court and the attorneys for the respective parties evidently treated the demurrer as an answer to the return, as a consent order was entered referring the only controverted issue to a referee to report the testimony. There was no material conflict in the evidence, and upon the report of the referee the court filed an opinion determining the issues of law and fact in favor of the respondents, and overruling the relator's demurrer to the return, and denying his motion for peremptory writ of mandamus. Formal findings were made in accordance with the opinion, upon which the judgment was entered. This summary method of trial has in the opinion of the court met the substantial ends of justice, and the relator by consenting thereto is in no position to complain.

Error is assigned by the appellant upon the refusal of the court to permit an amendment to the petition setting up the requirement of the school authorities that the suspended pupils should pay a penalty of 40 cents each as a condition of reinstatement. Formal application to amend was not made until after judgment, and there is no appeal from the order denying the same. The appeal being from the judgment, the subsequent order is not reviewable upon this record. (*Bank of Commerce v. Elliott*, 109 Wis. 648, 85 N. W. 417.) As there was no conflict in the testimony on this subject, the variance between the pleading and the proof was not material, and the court might have found the fact in accordance with the evidence, or have ordered an amendment to the petition. Section 2670, Stat. 1893. The court did consider the proof with respect to this penalty and very properly suggested in the opinion that no such condition should be attached to the reinstatement of the pupils. It has been held that a school board has no power to make or enforce a rule requiring pupils under penalty of suspension to pay damages for school property accidentally or negligently injured or destroyed. (*Perkins v. School Board*, 56 Iowa, 476, 9 N. W. 356; *Hollman v. School District*, 77 Mich. 605, 43 N. W. 990, 6 L. R. A. 534.)

We are not called upon to approve the practical wisdom displayed by the school authorities in dealing with the hasty conduct of thoughtless school children, prompted by an older mate, and abetted by the publisher of the paper, or to justify the strong resentment that must have prompted the relator in appealing to the courts for redress. The exercise of a little charity, forbearance, and good nature might have avoided the controversy, which must have been attended with more or less serious consequence to the suspended pupils as well as to the school, and to the litigants here represented. But the cause is before us for decision, and must be treated like any other lawsuit.

The remaining assignments of error relate to the power of the school authorities to suspend the offending pupils for the misconduct, which was established by the undisputed evidence. The authority to suspend the pupils from the privileges of the school is denied by the appellant, unless the offense was a violation of some rule prescribed by the board, or involved moral turpitude, or was committed during school hours in the schoolroom, or in the presence of the master and other pupils. In support of this proposition counsel refer to *Board of Education v. Purse*, 101 Ga. 422, 28 S. E. 806, 41 L. R. A. 533, 65 Am. Stat. Rep. 312; *Murphy v. Board of Directors*, 30 Iowa, 429; and *Dritt v. Snodgrass*, 66 Mo. 280, 27 Am. Rep. 343. The decision of the Georgia court has no direct application. It was there held that the school board might suspend children who had not been guilty of any violation of the rules of the school, but whose mother, undertaking to call in question the discipline of the teacher over one of the children, entered the schoolroom during school hours, and in the presence of the pupils there assembled used offensive and insulting language to such teacher. *Dritt v. Snodgrass*, *supra*, is readily distinguishable. There the

school board had made a rule that no pupil should during the school term attend a social party, and a pupil by the permission of his parents violated the rule and was expelled. The court held that in prescribing the foregoing rule the board had gone beyond its power and invaded the rights of the parents. *Murphy v. Board of Directors*, 30 Iowa, 429, is directly in point, and supports the proposition stated by the appellant, but the decision is made to turn upon the extent of the power conferred by statute on boards of school directors. The statute provided that the directors should have power to dismiss pupils from school for *gross immorality or for persistent violation of the regulations of the school*; and it was also made their duty to aid the teacher in establishing and enforcing rules for the government of the schools. The words italicized are so written in the opinion as manifesting the power which may be exercised by the board. The plaintiff in that case was not charged with immorality or the violation of any regulation of the school. It is said in the opinion: "The statute does not authorize the board of directors to suspend pupils for acts tending to destroy the peace and harmony of the school, or inciting insubordination in others, or for ridicule of the directors, in the absence of any regulation prohibiting such acts." Section 439, Stat. 1898, confers broader power upon such boards; it authorizes them to make all rules needful for the government of the school, and to suspend any pupil for noncompliance with the rules made by themselves or by the teacher with their consent. But it is urged that in the instant case no rule had been prescribed by the board or by the teacher relating to the misconduct complained of. But that contention is fairly met by the decision of this court in *State ex rel. Burpee v. Burton*, 45 Wis. 150, 30 Am. Rep. 706.

The case last cited was an action of mandamus to compel the reinstatement of a pupil in the school who had been guilty of misconduct, which was of itself not a violation of any rule prescribed by the board or by the principal. It is said in the opinion: "While the principal or teacher in charge of a public school is subordinate to the school board or board of education of his district or city, and must enforce rules and regulations adopted by the board for the government of the school, and execute all its lawful orders in that behalf, he does not derive all his power and authority in the school and over his pupils from the affirmative action of the board. He stands for the time being in loco parentis to his pupils, and because of that relation he must necessarily exercise authority over them in many things concerning which the board may have remained silent. In the school, as in the family, there exist on the part of the pupils the obligations of obedience to lawful commands, subordination, civil deportment, respect for the rights of other pupils, and fidelity to duty. These obligations are inherent in any proper school system, and constitute, so to speak, the common law of the school. Every pupil is presumed to know this law, and is subject to it, whether it has or has not been reenacted by the district board in the form of written rules and regulations. Indeed, it would seem impossible to frame rules which would cover all cases of insubordination and all acts of vicious tendency which the teacher is liable to encounter daily and hourly." While the offense for which the pupil was suspended is not stated in the *Burpee* case, it was apparently committed in the schoolroom and in the presence of the teacher, and hence it may be urged that the two cases are distinguishable. We have been referred to no decision directly holding that the school authorities can suspend a pupil for misconduct after school hours, unless the offense is a violation of established rules, or is committed in the schoolhouse or upon the school grounds, or in the presence of the master and other pupils. There is abundant authority, however, that the school board or the teacher may make rules to govern the conduct of the pupils after school hours, and punish a violation thereof by suspension from attendance upon school. (*Deskins v. Gose*, 85 Mo. 485, 55 Am. Rep. 387; *Hutton v. State*, 23 Tex. App. 386, 5 S. W. 122, 59 Am. Rep. 776; *Wayland v. Hughes*, 43 Wash. 441, 80 Pac. 642, 7 L. R. A. (N. S.) 352; *Kinzer v. Directors*, 129 Iowa, 441, 105 N. W. 686, 3 L. R. A. (N. S.) 406; *Jones v. Cody*, 132 Mich. 13, 62 N. W. 495, 62 L. R. A. 160.)

It is clear, therefore, that a rule might have been adopted by the school authorities to meet the situation here presented. This court in the quotation already made from the opinion in the *Burpee* case recognizes certain obligations on the part of the pupil, which are inherent in any proper school system, and which constitute the common law of the school, and which may be enforced without the adoption in advance of any rules upon the subject. This court therefore holds that the school authorities have the power to suspend a pupil for an offense committed outside of school hours and not in the presence of the

teacher which has a direct and immediate tendency to influence the conduct of other pupils while in the schoolroom to set at naught the proper discipline of the school, to impair the authority of the teachers, and to bring them into ridicule and contempt. Such power is essential to the preservation of order, decency, decorum, and good government in the public schools.

The school authorities considered the misconduct for which the pupils were suspended such as to have a direct and injurious effect upon the good order and discipline of the school. The relator's children were instrumental in causing the publication of the poem in a newspaper, which, supposedly, found its way into the homes of many of the children attending the high school, and who would be as much influenced thereby as if the writing had been printed and posted in the schoolroom, or there circulated and read. The teachers are especially familiar with the disposition and temper of the children under their charge and the effect which such a publication would probably have upon the good order and discipline of the school. The school authorities must necessarily be invested with a broad discretion in the government and discipline of the pupils, and the courts should not interfere with the exercise of such authority unless it has been illegally or unreasonably exercised. The trial court has found that the act complained of does not evince an abuse of discretion on the part of the teachers, but rather an earnest desire to counsel, admonish, and discipline the pupils for their own good as well as for the good of the school. That conclusion is supported by the testimony and is here approved. This court is not called upon to decide as to the wisdom of the action of the school authorities, but only as to their jurisdiction within proper limits.

The judgment of the court below is affirmed.

## TEACHERS' SALARIES.

### XIII. Pennsylvania.

[Houston v. Central Board of Education of Pittsburgh (Supreme Court of Pennsylvania, January 6, 1908), 68 A., 1036.]

Bill by James W. Houston against the Central Board of Education of Pittsburgh for an injunction.

The following is the opinion of Evans, J., in the court below:

"The plaintiff, a taxpayer of the city of Pittsburgh, files this bill against the Central Board of Education of the City of Pittsburgh, alleging that in the appointment of a commission known as the 'teachers' salary commission' and the maintenance of said commission and the payment of salaries of certain of the teachers of the said districts of the city of Pittsburgh, in accordance with the recommendation of said commission, the defendant has transcended its authority, and asking that it be restrained in the premises.

#### "Findings of fact.

"The facts in this case are not in dispute. There was no testimony taken at the trial of the case, and all the material allegations of the plaintiff's bill are admitted in the answer, and we have found the undisputed facts in the case by the approval of the requests of the plaintiff for findings of fact, and refer to them and to the bill for the facts in the case.

#### "Conclusions of law.

"In the month of December, 1904, the defendant, the Central Board of Education of the City of Pittsburgh, by resolution, divided the teachers of the sub-district schools below the eighth grade into two classes, to be known as 'Class A' and 'Class B,' and fixed the salary of Class A at various amounts, dependent upon the number of years' experience had by the teacher, making the salary for above seven years' experience \$800 per annum, and fixed the salary of the teachers in Class B at \$600 per annum. The requisites of enrollment in Class B

were, first, the teacher shall have taught seven annual terms of ten months each; second, they shall hold a permanent certificate issued by the State of Pennsylvania; third, they shall be recommended to the commission by the board of directors of the subdistrict in which they are employed at the time of the application, and said recommendation shall have the approval of the principal and shall be indorsed by a commission known as the 'teachers' salary commission' upon an investigation and examination made by it. The above is, in substance, the acts of the defendant which the plaintiff alleges are illegal.

"The defendant is a creature of the legislature, and, unless the powers assumed by it in the premises are authorized by the legislature, then it has no right to expend the public money in the furtherance of the object to be obtained by the exercise of these powers. The act of February 12, 1869 (P. L., 150), creating the Central Board of Education of Pittsburgh, and determining its powers, is very specific, and goes into detail in fixing the powers of the central board, both as respects the high school and the subdistrict schools, and the only power or control which the Central Board of Education may exercise with reference to the teachers of the subdistrict schools is found in the twenty-seventh section of the act, which provides: 'That the central board shall have power and authority to determine upon the number of teachers in the subdistrict schools, schools for children of color and professors and teachers in the high school, and to fix and pay the salaries of all of said professors and teachers.' Another section gives it the powers to appoint and to dismiss professors and teachers in the high school, but as to the subdistrict schools this authority is given to the central board.

"It is under the power to fix and pay the salaries of the teachers of the subdistrict schools that the central board of education assumes to maintain the salary commission. The salary commission was appointed by a resolution of the central board of education in the month of December, 1904, and the paragraph which embodies the real work of that commission is as follows: 'The commission shall have the following powers and duties: \* \* \* (b) To conduct such investigation at such times and in such manner as may be decided by the commission and as may be deemed necessary that a just conclusion may be reached on the proficiency and progressive spirit of the applicant in her profession.' It will be observed that there is no standard fixed by the school board, the attainment of which will determine the question of the salary to be paid to the teacher. There is no direction as to the manner in which the examination of the teacher, in order to determine her proficiency and progressive spirit, is to be conducted. The entire matter is left to the discretion of the commission created by the central board of education, without a rule to guide them or to bind them, and the report of the commission is final and conclusive, both upon the applicant and the central board.

"Paragraph 'c' of the powers of the commission is 'to report to the various subdistrict boards from whose corps of teachers applications have been received the names of the teachers who have been enrolled in Class B;' paragraph 'd,' to report to the secretary of the central board of education, before the 15th of September in each year, the names of such teachers as have been enrolled in Class B during the year.' It will be observed that the commission enrolls the teachers in Class B and Class A without reference to the will of the local board or of the central board, without consulting either, and simply reports the result of its conclusion to those boards. The fixing of the salaries of teachers on the basis of the report of this commission is certainly the fixing of those salaries by proxy, which was condemned by the supreme court of our State in *Deland Land Company's appeal*, 103 Pa., 347. Mr. Justice Trunkley, in delivering the opinion of the court, said: 'Doubtless the directors believed it for the interest of the district to employ Noonan to perform many of their own duties and some of the duties of the county superintendent in relation to the fifteen schools widely scattered over a large township. The directors honestly arranged to supervise, grade, and visit the schools by proxy. But their good faith does not stand as authority for employing a superintendent for the district. The provisions of the law may be inadequate to the needs of the district because the county superintendent has too much to do and the directors are indisposed to do all that is required of them. If so, the power that made the law alone can remedy its defects.' We think the decision of this case governs this one. The power to fix the salaries is in the central board of education. It has a discretion



which must be exercised by it and can not be delegated to a commission, and the payment of salaries to this commission and the expenses of its maintenance and operation and the payment of salaries based upon the report made by it are without the power of the central board and contrary to law. To the board of directors of the subdistrict schools is given the power to elect the teachers, to supervise their conduct during their incumbency, and to discharge them for reasons specified in the act of assembly. Necessarily connected with these powers is the duty to pass upon their qualifications as teachers before their election, the efficiency of their work during their incumbency, and their term of service in the subdistrict schools. All these are given necessarily to the directors of the subdistrict schools. None of them are given to the central board of education. If we then give to the central board of education power to fix the salary dependent upon its judgment of the qualifications of the individual teachers, we take away from the directors of the subdistrict schools the gist of their supervision over the individual teachers and their determination of their qualifications and efficiency. Of what good would be the power to elect a teacher by the directors of the subdistrict schools if the central board of education might determine that that teacher was unfit for the position and fix her salary at such an inadequate amount that she could not afford to accept the position?

"It was not intended by the legislature that the power to fix the salaries of the teachers of the subdistrict schools should thus interfere with the powers and duties of the subdistrict board; but the evident intention is to fix such a schedule of salaries that the directors of the various subdistricts may know from their examination of the qualifications of the teacher, her experience, her probable efficiency in the school, the position to which they would elect her, the exact salary which she shall get upon the assumption of her duties. And this is the interpretation which the central board of education has placed upon the authority given it to fix salaries from its creation up until December, 1904, and it was in pursuance of this interpretation of the act of assembly that it fixed the salaries of the teachers of the subdistrict schools.

"(1) The plaintiff has standing to maintain this bill.

"(2) The creation and maintenance of the commission known as the 'teachers' salary commission' by the defendant is without authority of law.

"(3) The payment of salaries and expenses of said commission by the defendant was unlawful.

"(4) The fixing of the salaries by the defendant of the teachers of the subdistrict schools below the eighth grade and above seven years' experience, in accordance with the resolution of December, 1904, was not an exercise of the power given to it to fix the salaries of the teachers of the subdistrict schools, and was, therefore, unlawful and void.

"Decree.

"And now, September 22, 1906, this cause came on to be further heard at this term and was argued by counsel, and upon consideration thereof it is ordered, adjudged, and decreed as follows, viz:

"(1) The teachers' salary commission referred to in the bill in this case is illegal and has no legal right to exercise the powers purporting to be conferred upon it under the resolution adopted by the defendant and referred to in said bill.

"(2) The defendant, the central board of education of the city of Pittsburg, its officers, members, and agents, are hereby enjoined and restrained from paying out any funds, by way of salary, expense, or otherwise, to the members of or on account of said teachers' salary commission.

"(3) The defendant and the members thereof are hereby ordered to resume and exercise the power and duty of fixing the salaries of teachers of the subdistrict schools of the city of Pittsburg in accordance with the statute in such case made and provided."

Argued before Fell, Brown, Mestrezat, Potter, Elkin, and Stewart, J. J.

PER CURIAM. The decree entered in this case is affirmed on the findings of fact and conclusions of law by the learned judge of the common pleas.



## TEACHERS' LICENSES—REVOCATION.

## XIV. Indiana.

STONE, county superintendent, v. FRITTS (Supreme Court of Indiana, November 26, 1907).  
82 N. E., 792.]

Appeal from circuit court, Owen County; Joseph W. Williams, judge.

Action by Harry Fritts v. William H. Stone, county superintendent. From a judgment for plaintiff defendant appeals. Reversed, with directions.

MONTGOMERY, J., appellee, brought this action to enjoin appellant, as county superintendent, from revoking his license to teach school. It appears from the complaint: That appellee is a school-teacher of twenty years' experience, and that on October 16, 1905, while engaged in teaching in Owen County, appellant prepared and filed against him as such teacher the following charge and specifications, to wit: "(1) You have refused without good reason to board in your school community. On this account you are unable to reach your school so as to begin daily school sessions at a reasonable time. (2) You have refused without reason to attend the preliminary township institute and the monthly township institute. (3) You have refused without reason to give regular attendance at the teachers' county institute. (4) You do not make daily preparation necessary for successful teaching." That appellee appeared in response to notice, and such proceedings were had as resulted in the dismissal of such charge, and, on completion of his school term, appellant issued to him a success grade of 92 per cent as a teacher. That afterwards appellee secured from the state superintendent a license to teach for twenty-four months from the 28th day of April, 1906, and on July 5 following appellant notified appellee to appear at his office and make answer to the above charge, and show cause, if any, why his license to teach should not be revoked, and in response thereto appellee appeared in person and by counsel, and caused the hearing to be postponed until July 10th. Appellee further avers that neither of said charges constitutes a cause for the revocation of such license; that appellant has no right or authority to hear and determine the same; that conceding the sufficiency of such charge appellant has no power to hear and determine the same over the objection of appellee; that section 9 of the act of March 3, 1899 (Acts, 1899, p. 245, chap. 143), is unconstitutional; that the charges are untrue and false, and appellant is not an impartial magistrate, and will upon such charge revoke appellee's license to his irreparable damage. The court below overruled appellant's demurrer to the complaint, and the assignment that this ruling was erroneous presents the disputed questions for our decision.

The statute upon which this proceeding was founded reads as follows: "That the county superintendent shall (have) the power to revoke licenses heretofore granted by himself or predecessors or hereafter granted by the state superintendent of public instruction, for incompetency, immorality, cruelty, or general neglect, by the holder, of the business of his school. Due notice of such revocations shall be given in writing by the county superintendent, and an appeal therefrom shall lie to the state superintendent of public instruction, and if the same be taken within five days after notice is given it shall operate as a stay of proceedings until the state superintendent of public instruction shall have passed upon such appeal. The revocation of the license of any teacher shall terminate his employment in the school in which he may have been employed to teach." (Burns' Ann. Stat., 1901, sec. 5905f). It is contended on behalf of appellee that this section of the law contravenes section 12 of article 1 of the state constitution, which provides "that the courts shall be open; and every man for injury done to him in person, property, or reputation, shall have remedy by due course of law;" and also violates section 21 of article 1, which provides that "no man's particular services nor his property shall be taken by law without just compensation;" and violates the provisions of article 3 of the constitution by conferring judicial power upon a ministerial officer. This complaint can be held sufficient only upon the ground that the law in question is unconstitutional, or that the proceeding assailed was wholly void for want of jurisdiction over the subject-matter or the person of appellee.

The constitutional questions suggested are not of a serious character. It must be remembered that the establishment and regulation of public schools

rest primarily with the legislative department, and the constitutional provisions invoked by appellee were not designed to trammel the State in the exercise of its general political powers, or to impose upon the courts the duty of interposing between the legislature and the citizen in matters of pure governmental concern. The legislature, in the proper exercise of its power, has provided a general system of licenses for those who desire to engage in teaching, and has authorized the revocation of any such license by county superintendents for certain prescribed causes. A license has none of the elements of a contract, and does not confer an absolute right, but only a personal privilege to be exercised under existing restrictions, and such as may thereafter be reasonably imposed. Statutes authorizing the issuance of such licenses are enacted to promote the good order and welfare of the State, and may ordinarily be repealed at the pleasure of the legislature. (*Calder v. Kirby*, 5 Gray (Mass.), 597; *Freleigh v. State*, 8 Mo., 606; *People v. New York Tax, etc., Commissioners*, 47 N. Y., 501; *State v. Burgoyne*, 75 Tenn., 173, 40 Am. Rep., 60.)

In the case of *Doyle v. Continental Insurance Company* (94 U. S., 335, 340, 24 L. Ed., 148) the Supreme Court of the United States, in speaking of licenses, said: "The correlative power to revoke or recall a permission is a necessary consequence of the main power. A mere license by the State is always revocable." The statute authorizing the granting of a license may provide for its revocation in certain contingencies, and, by accepting and acting under a license, the licensee consents to all conditions imposed thereby, including provisions for its revocation. (21 Am. and Eng. Ency. of Law, 826.) In the case of *Commonwealth v. Kinsley* (133 Mass., 578) the supreme court of Massachusetts said: "A licensee takes his license subject to such conditions as the legislature sees fit to impose, and one of the statutory conditions of this license was that it might be revoked by the selectmen at their pleasure. Such a license is not a contract, and a revocation of it does not deprive the defendant of any property, immunity, or privilege within the meaning of these words in the declaration of rights." The supreme court of Illinois, in discussing the proprietary interest of an individual in a license to retail intoxicating liquors, said: "He received the license on the condition that it might be revoked if he should sell liquor on Sunday, and he thereby assented to the terms and conditions." (*Schwuchow v. City of Chicago*, 68 Ill., 444, 450.)

It is our conclusion that the act in question does not assume to, and does not, deny appellee access to the courts for any injury done to him in his person, property, or reputation, within the meaning of section 12, article 1, of the state constitution. The enforcement of regulations enacted in the proper exercise of the police power of the State can not be resisted as a taking of private property without compensation in violation of section 21, article 1, of the state constitution. (*State v. Richcreek*, 167 Ind., 217, 77 N. E., 1085; *Levy v. State*, 131 Ind., 261, 68 N. E., 172; *City of Aurora v. West*, 9 Ind., 74.) It is equally well settled that statutes conferring upon a ministerial officer or board power to issue and to revoke licenses are not invalid and do not clothe such tribunals with judicial power, and in granting, refusing, or revoking any such license such tribunal does not exercise judicial power in violation of constitutional provisions. (*Spurgeon v. Rhodes*, 167 Ind., 1, 78 N. E., 229; *State v. Webster*, 150 Ind., 621, 50 N. E., 750, 41 L. R. A., 212.) We accordingly hold the statute above quoted valid and constitutional as against the attack of appellee.

The remaining question is whether, in his complaint, appellee has shown sufficient ground to invoke the aid of a court of equity. In a kindred case the supreme court of New Jersey denied a teacher's right to resort to a court of law, using the following language: "The plaintiff, having accepted an appointment as a teacher under the school law, is bound by all of its provisions, and has barred himself from having the propriety of his dismissal by the local school board reviewed in any tribunal except those specially created by the legislature for the purpose." (*Draper v. Commissioners of Public Instruction*, 66 N. J. law, 54, 55; 48 Atl., 556.) The rule of estoppel in this State can not be said to be so strict as the New Jersey doctrine in view of the following provisions: "Nothing in this act, however, shall be construed so as to change or abridge the jurisdiction of any court in cases arising under the school laws of this State; and the right of any person to bring suit in any court in any case arising under the school laws shall not be abridged by the provision of this act." (Acts, 1896, p. 242, chap. 143, sec. 4; sec. 5993, Burns' Ann. Stat., 1901.) It is generally accepted doctrine that where a statute or ordinance authorizes the revocation of a license for causes enumerated, such license can not be revoked upon any ground other than one of the causes specified. (21

Am. and Eng. Ency. of Law, 826.) The court of appeals of Kentucky regards the act of a superintendent in revoking a license under the laws of that State as a judicial proceeding, and expressly holds that, if in any case the superintendent is proceeding without jurisdiction, the circuit court has power to restrain the proceeding. (Supt., etc., v. Taylor, 105 Ky., 387, 390, 49 S. W., 88.) We are not in accord with the Kentucky court in classing the action of a school superintendent in revoking a license as judicial in the technical meaning of that word, but we do hold that he may revoke only for some statutory cause, and, if attempting to proceed upon grounds wholly outside of the statute, his action would be without jurisdiction, and upon a sufficient showing, a court of equity might intervene to prevent the threatened revocation. If the superintendent is proceeding to hear a charge fairly within the statute, and upon reasonable notice the accused must follow the procedure provided in the school laws, and, if aggrieved by the decision of the county superintendent, prosecute an appeal to the state superintendent. (Moreland v. Wynnee (Tex. Civ. App.) 62 S. W., 1093; Harkness v. Hutcherson et al., 90 Tex., 383, 38 S. W., 1120; Jackson v. Ind. School Dist., 110 Iowa, 318, 81 N. W., 500; Kirkpatrick v. Independent School Dist., 53 Iowa, 585, 5 N. W., 750; St. Joseph v. Levin, 128 Mo., 588, 81 S. W., 101, 49 Am. Stat. Rep., 577; Carver v. School Dist., etc., 113 Mich., 524, 71 N. W., 859; People v. Board of Education, 17 Barb. (N. Y.), 290; Moore v. Pine Twp. School Dist., 145 Pa., 550, 22 Atl., 1040; Roth v. Marshall, 158 Pa., 272, 27 Atl., 945.)

Giving appellee's rights under his license the widest effect allowable, the utmost he could ask or exact of the State is that proceedings to revoke such license be made to conform to the law authorizing such revocation. Township and county institutes for teachers are required to be held, their attendance is commanded, and pay provided. (Sections 6009, 6010, Burns's Ann. Stat.) The statute quoted authorizes a teacher's license to be revoked for general neglect of the business of his school. It is manifestly upon this ground that the charge under consideration was predicated. The first specification was not skillfully or aptly phrased, and in itself might not justify the revocation; but the complaint intended, doubtless, was not, as seemingly charged, that appellee, without good reason, refused to board in the school community, but failed to open his school at a reasonable hour because he needlessly boarded at a place remote from the school. This feature of the general charge, so far as we are advised, might have been amended or stricken out upon motion before the county superintendent. A party to a pending proceeding is not entitled to relief by injunction for matter from which he might obtain relief by motion in that proceeding itself. (22 Cyc., 772.) The second and third specifications, as well as the fourth, if true, show a lack of interest in his work and a general neglect of his duty as a teacher and of the business to which his efforts should be directed, and bring the charge within the terms of the statute, and consequently give the appellant jurisdiction over the subject-matter. Jurisdiction over the person of appellee is admitted by the averments of the complaint. In these circumstances, the conditions under which he accepted his license compelled him to submit to the authority of the school officers, and, if aggrieved by the decision of the county superintendent, seek redress by an appeal to the state superintendent of public instruction. These officers are clothed with special powers and charged with the duty of holding these institutes, and of laboring in every practical way to elevate the standard of teaching and to improve the condition of the schools. Judicial officers, however wise, should not hastily usurp their prerogatives and functions and seek to substitute their opinions for the opinions and judgments of men held accountable for results in educational affairs. Tribunals established by law may not infringe upon the jurisdiction of each other; and, as this court said in the case of Board v. Markle, 46 Ind., 96: "In the present imperfect state of human knowledge, a power to hear and determine necessarily carries with it a power which makes the determination obligatory, without reference to the question whether it was right or wrong. If this were not so, the judgment or determination of any court would be of no particular value. It might be attacked or avoided at pleasure, upon the ground that the court or judge had committed an error." If questions affecting the competency and general conduct of teachers may be indiscriminately taken from the determination of school tribunals and submitted to courts and juries, learned or unlearned, as they may be, no discipline or harmonious system can be preserved, but the fate of a teacher may be made to depend upon his pronouncement of such words as "Cuba" and "America," as exemplified in the case of Carver v. School Dist., supra.

Jurisdiction of the county superintendent being shown, the allegations with respect to his bias and want of judicial capacity are without force. He must answer to the body responsible for his election for the manner in which he discharges his duties so long as he keeps within his legitimate sphere. The complaint is insufficient to invoke equitable relief, and appellant's demurrer thereto for want of facts should have been sustained.

The judgment is reversed, with directions to sustain appellant's demurrer to the complaint.

## TRANSPORTATION OF PUPILS.

### XV. Massachusetts.

*Interstate Consolidated Street Railway Company v. Commonwealth of Massachusetts* (United States Supreme Court, argued October 15-16, 1907; decided November 4, 1907), 207 U. S. 79.]

In error to the superior court of the State of Massachusetts to review a conviction of a street-railway company, on appeal from the first district court of Bristol County, in that State, for refusing to transport school children at a reduced rate, exceptions having been heard by the supreme judicial court and overruled. Affirmed.

Mr. Justice Holmes delivered the opinion of the court.

This was a complaint against the plaintiff in error for refusing to sell tickets for the transportation of pupils to and from the public schools at one-half the regular fare charged by it, as required by Massachusetts Revised Laws, chapter 112, section 72. At the trial the railway company admitted the fact, but set up that the statute was unconstitutional, in that it denied to the company the equal protection of the laws and deprived it of its property without just compensation and without due process of law. In support of this defense it made an offer of proof which may be abridged into the propositions that the regular fare was 5 cents; that during the last fiscal year the actual and reasonable cost of transportation per passenger was 3.86 cents, or, including taxes, 4.10 cents; that pupils of the public schools formed a considerable part of the passengers carried by it, and that the one street railway expressly exempted by the law transported nearly one-half the passengers transported on street railways and received nearly one-half the revenue received for such transportation in the Commonwealth. The offer was stated to be made for the purpose of showing that the plaintiff in error could not comply with the statute without carrying passengers for less than a reasonable compensation and for less than cost. The offer of proof was rejected, and a ruling that the statute was repugnant to the fourteenth amendment was refused. The plaintiff in error excepted and, after a verdict of guilty and sentence, took the case to the supreme judicial court. (187 Mass., 436.) The court overrules the exceptions, whereupon the plaintiff in error brought the case here.

This court is of opinion that the decision below was right. A majority of the court considers that the case is disposed of by the fact that the statute in question was in force when the plaintiff in error took its charter, and confines itself to that ground. The section of the Revised Laws (chap. 112, sec. 72) was a continuation of Statutes, 1900, chapter 197. (Rev. Laws, chap. 228, sec. 2, *Commonwealth v. Anselvich*, 186 Mass., 376, 379, 380.) The act of incorporation went into effect March 15, 1901. (Stat., 1901, chap. 159.) By the latter act the plaintiff in error was "subject to all the duties, liabilities, and restrictions set forth in all general laws now or hereafter in force relating to street railway companies except," etc., section 1. See also section 2. There is no doubt that, by the law as understood in Massachusetts, at least, the provisions of Revised Laws, chapter 112, section 72; Statutes, 1900, chapter 197, if they had been inserted in the charter in terms, would have bound the corporation, whether such requirements could be made constitutionally of an already existing corporation or not. The railroad company would have come into being and have consented to come into being subject to the liability and could not be heard to complain. (*Rockport Water Co. v. Rockport*, 161 Massachusetts, 279; *Ashley*



*v. Ryan*, 153 U. S., 436, 443; *Wight v. Davidson*, 181 U. S., 271, 377; *Newburyport Water Co. v. Newburyport*, 193 U. S., 561, 679.)

If the charter, instead of writing out the requirements of Revised Laws 112, section 72, referred specifically to another document expressing them, and purported to incorporate it, of course the charter would have the same effect as if it itself contained the words. If the document was identified, it would not matter what its own nature or effect might be, as the force given to it by reference and incorporation would be derived wholly from the charter. The document, therefore, might as well be an unconstitutional as a constitutional law. See *Commonwealth v. Melville* (160 Mass., 307, 308). But the contents of a document may be incorporated or adopted as well by generic as by specific reference, if only the purport of the adopting statute is clear. (*Corry v. Baltimore*, 196 U. S., 466, 477. See *Purdy v. Erie R. R. Co.*, 162 N. Y., 42.)

Speaking for myself alone, I think that there are considerations on the other side from the foregoing argument that make it unsafe not to discuss the validity of the regulation apart from the supposition that the plaintiff in error has accepted it. See *W. W. Cargill Co. v. Minnesota* (180 U. S., 452, 468). Therefore I proceed to state my grounds for thinking the statute constitutional irrespective of any disabilities to object to its terms. The discrimination alleged is the express exception from the act of 1900 of the Boston Elevated Railway Company and the railways then owned, leased, or operated by it. But, in the first place, this was a legislative adjudication concerning a specific road, as in *Wight v. Davidson* (181 U. S., 371); not a general prospective classification, as in *Martin v. District of Columbia* (205 U. S., 135, 138). A general law must be judged by public facts, but a specific adjudication may depend upon many things not judicially known. Therefore the law must be sustained on this point unless the facts offered in evidence clearly show that the exception can not be upheld. But the local facts are not before us, and it follows that we can not say that the legislature could not have been justified in thus limiting its action. (*Covington & Lexington Turnpike Road Co. v. Sanford*, 164 U. S., 578, 579, 598.) In the next place, if the only ground were that the charter of the elevated railway contained a contract against the imposition of such a requirement, it would be attributing to the fourteenth amendment an excessively nice operation to say the immunity of a single corporation prevented the passage of an otherwise desirable and wholesome law. It is unnecessary to consider what would be the effect on the statute by construction in Massachusetts if the exception could not be upheld. For, if in order to avoid the Scylla of unjustifiable class legislation the law were read as universal (see *Dunbar v. Boston & Providence R. R. Co.*, 181 Mass., 383, 386), it might be thought by this court to fall into the Charybdis of impairing the obligation of a contract with the elevated road, although that objection might perhaps be held not to be open to the plaintiff in error here. (*Hatch v. Reardon*, 204 U. S., 152, 160.)

The objection that seems to me, as it seemed to the court below, most serious is that the statute unjustifiably appropriates the property of the plaintiff in error. It is hard to say that street railway companies are not subjected to a loss. The conventional fare of 5 cents presumably is not more than a reasonable fare, and it is at least questionable whether street railway companies would be permitted to increase it on the ground of this burden. It is assumed by the statute in question that the ordinary fare may be charged for these children or some of them when not going to or from school. Whatever the fare, the statute fairly construed means that children going to or from school must be carried for half the sum that would be reasonable compensation for their carriage, if we looked only to the business aspect of the question. Moreover, while it may be true that in some cases rates or fares may be reduced to an unprofitable point in view of the business as a whole or upon special considerations (*Minnepolls & St. Louis R. R. Co. v. Minnesota*, 180 U. S., 256, 267), it is not enough to justify a general law like this, that the companies concerned still may be able to make a profit from other sources, for all that appears. (*Atlantic Coast Line R. R. Co. v. North Carolina Corporation Commission*, 206 U. S., 1, 24, 25.)

Notwithstanding the foregoing considerations, I hesitatingly agree with the state court that the requirement may be justified under what commonly is called the "police power." The obverse way of stating this power in the sense in which I am using the phrase would be that constitutional rights, like others, are matters of degree, and that the great constitutional provisions for the protection of property are not to be pushed to a logical extreme, but must be taken to permit the infliction of some fractional and relatively small losses without



compensation, for some, at least, of the purposes of wholesome legislation. (*Martin v. District of Columbia*, 205 U. S., 135, 139; *Camfield v. United States*, 197 U. S., 518, 524.)

If the fourteenth amendment is not to be a greater hamper upon the established practices of the States in common with other Governments than I think was intended, they must be allowed a certain latitude in the minor adjustments of life, even though by their action the burdens of a part of the community are somewhat increased. The traditions and habits of centuries were not intended to be overthrown when the amendment was passed.

Education is one of the purposes for which what is called the "police power" may be exercised. (*Barbier v. Connolly*, 113 U. S., 27, 31.) Massachusetts always has recognized it as one of the first objects of public care. It does not follow that it would be equally in accord with the conceptions at the base of our constitutional law to confer equal favors upon doctors or workmen or people who could afford to buy 1,000-mile tickets. Structural habits count for as much as logic in drawing the line. And, to return to the taking of property, the aspect in which I am considering the case, general taxation to maintain public schools is an appropriation of property to a use in which the taxpayer may have no private interest, and, it may be, against his will. It has been condemned by some theorists on that ground. Yet no one denies its constitutionality. People are accustomed to it and accept it without doubt.

The present requirement is not different in fundamental principle, although the tax is paid in kind and falls only on the class capable of paying that kind of tax—a class of quasi public corporations specially subject to legislative control. Thus the question narrows itself to the magnitude of the burden imposed—to whether the tax is so great as to exceed the limits of the police power. Looking at the law without regard to its special operation I should hesitate to assume that its total effect, direct and indirect, upon the roads outside of Boston amounted to a more serious burden than a change in the law of nuisance, for example, might be. See further *Williams v. Parker* (188 U. S., 491). Turning to the specific effect, the offer of proof was cautious. It was simply that a "considerable percentage" of the passengers carried by the company consisted of pupils of the public schools. This might be true without the burden becoming serious. I am not prepared to overrule the decision of the legislature and of the highest court of Massachusetts, that the requirement is reasonable under the conditions existing there, upon evidence that goes no higher than this. It is not enough that a statute goes to the verge of constitutional power. We must be able to see clearly that it goes beyond that power. In case of real doubt a law must be sustained.

Mr. Justice Harlan is of the opinion that the constitutionality of the act of 1900 is necessarily involved in the determination of this case. He thinks the act is not liable to the objection that it denies to the railway company the equal protection of the laws. Nor does he think that it can be held, upon any showing made by this record, to be unconstitutional as depriving the plaintiff in error of his property without due process of law. Upon these grounds alone, and independent of any other question discussed, he joins in a judgment of affirmance. Judgment affirmed.

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